Faqihuddin Abdul Kodir, MA

Hadith and Gender Justice

Understanding the Prophetic Traditions

fahmina *institute*

Pandji-pandji N.U, tjiptaan asli oleh K.H. Riduan, Bubutan Surabaya th. 1926.

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Understanding the Prophetic Traditions

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To:

My mother, Hurriyah Harun

and

my wife Mimin Mu'minah.

Acknowledgments

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List of Abbreviations

as *'alayhi salâm* (peace be upon him).

ra *radiyallâhu `anhu-*(*hâ*) (May Allah be pleased with him/her).

saw *sallâhu 'ala hi wa sallam* (Allah's blessings and peace be upon him).

Transliteration Guide

ا	=	a
ب	=	b
ت	=	t
ث	=	th
ج	=	j
ح	=	h
خ	=	kh
د	=	d
ذ	=	dh
ر	=	r
ز	=	z
س	=	s
ش	=	sh
ص	=	s
ض	=	d
ط	=	t
ظ	=	z
ع	=	‘
غ	=	gh
ف	=	f
ق	=	q
ك	=	k
ل	=	l
م	=	m
ن	=	n
و	=	w
ه	=	h
ء	=	’
آ	=	â
أو	=	û
إي		î

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Foreword
Professor Farid Esack[1]

The center is falling, and that is perhaps not a bad thing; for what passes off as the center often misses it's most vulnerable sections –women, non-Arabs, rural dwellers, migrant labourers, those who are living with HIV, the powerless and the dispossessed.

There is so much in what passes off as "mainstream Islam" that is really not doing Muslims any good. Long before September 11th 2001, many of us knew that something was not going right in our home, the House of Islam. The arrogant views of religious superiority and exclusivism, the growing Arabization of Islam, the idea that women are somehow less than

[1] Farid Esack is the William Henry Bloomberg Professor in the Harvard Divinity School, Cambridge, MA.

men, our internal racism etc., are but some of the characteristics that came to define 'mainstream Islam'.

There is a desperate need for the experience of Muslims from the edges of 'mainstream Islam' to be centered, to be presented to the world, and most importantly to other Muslims, as an alternative to the exclusivism, chauvinism and sexism of the 'mainstream Islam' they know. The world is desperate for the idea that Islam can be and is experienced by millions of people as a faith of beauty and has the potential of upholding justice.

The undisputed reference points for Muslims are the Qur'ân and the Prophet Muhammad's (peace be upon him) definitive conduct (*Sunnah*). The unavoidable point of departure from where these reference points are approached, however, is one's self and the conditions wherein that self is located. In ignoring the ambiguities of language and history and their impact on interpretation, there is no effective distinction between normative Islamic morality and what the believer 'thinks' it to be. Both traditionalism and fundamentalism deny any personal or historical frame of reference in the first instance. While they will insist that normative Islamic morality is 'to be judged solely by the Qur'an and the sunnah', they will throughout their discourse simultaneously imply

'and we are the only ones who have correctly understood it'.

Often in response to this, many of us who work in the field of gender justice or liberative theology resort to contextual argument. We privilege our own contexts as subjects of the empire or the victims of power as an argument in itself. We have suffered, therefore we understand, we seem to be saying.

Along comes a scholar like Faqihuddin Abdul Kodir and says; "No, it is not enough to say that the context of suffering is on our side; the text is also on the side of the marginalized." In this seminal work of his, *Hadîth & Gender Justice*, he painstakingly examines hadîth texts and their chains that have been owned by the center to confine women to the margins. Faqihuddin's work does not only join the growing body of material on Islam and gender Justice but enhances it. It says to Muslims committed to justice, "You have no reason to walk away from your text; know it well, embrace it, and walk with it as weapon in your struggle to fulfill the divine idea – Yes, Allah's intention when he created the universe. And Allah created the world in Truth; so that no soul will be oppressed and that they will not be oppressed."

In looking at the Prophet Muhammad's (peace be upon him) definitive conduct as a

measure of justice, we are only left with the *hadîth* corpus. These texts have often been awkward for many gender activists and many have preferred to just ignore it and focus on some vague and ill-defined principles of justice. Faqihuddin has demonstrated for us that there is no particular need to be embarrassed by hadîth literature and that with careful text study, hadîth yields a vital resource for us as Muslims.

At some levels one thinks of this work as a work about the role of "Women in Islam"; it may be that. But it is written by a man and in many ways it is about men. Men cannot be free for as long as we are engaged in oppressive relationships with women.

In my many visits to Indonesia, I have often felt that Indonesia represents the best hope for Muslims throughout the world. In this work, Faqihuddin has reaffirmed that idea. This is a wonderful scholarly contribution to both gender studies in Islam and to the study of hadîth with a universal appeal from an Indonesian scholar. I have learnt an enormous amount in the course of reading through this book.

February 2007

Author's Foreword

This book is yet another effort, among the many efforts already made and currently being undertaken, to provide an alternative set of religious views that are derived from the traditional Islamic texts, but read using a certain paradigm. This paradigm produces new views on old texts that superficially did not seem to identify strongly with women and their struggles. This interpretive project contributes to the struggle for fairer and more equal relations between men and women and the view that this is an important dimension of the principles of oneness of Allah (*tawhîd*) and the message brought to us by the Prophet Muhammad (*saw*).

The chapters in this book, emerged as

responses to questions often raised by Islamic activists involved in the movement for promoting gender equality. In these discussions women's issues were often treated as religious issues where hadîth are used as key references for effectively subjugating women. This was partly a result of the absence of deeper understandings of the meanings of these texts particularly in terms of the contexts from which they emerged. In essence, certain hadîth and indeed, specific decisions made by the Prophet have typically been selectively invoked as authoritative references without any understanding of the backgrounds in which the hadîth were written and thus of hadith as an evolving interpretive discipline.

People follow a certain course of behavior and justify it by referring to the supposed behavior or example of the Prophet. This is known as *sunnah*. Yet the background and context for the Prophet's decisions and actions are typically ignored. The most obvious example of this is the exploitation of his *sunnah* to justify polygamy. With little or no regard to the historical context, men declare that they will wed multiple wives because they are following the precedent of the Prophet and thus acting virtuously. Conversely though, they do not

follow the many other practices of the Prophet which ensured that women were treated with justice and love. For example, the Prophets additional wives were women who were poor, old, and ignored by society. In this, we know that the Prophet was marrying these women to protect them, and not for satisfying the desire for creating a *harem*.

The Prophet (*saw*) also explicitly prevented 'Alî ibn Abî Tâlib (*ra*) from taking a second wife after he had married Fâtimah (*ra*), the Prophet's daughter. The question then is why this prohibition is not considered a *sunnah* that must be followed, if indeed, we want to follow the example of the Prophet. If pious men want to follow the example of the Prophet, then why do they never marry poor, elder widows?

The traditions of the Prophet Muhammad (*saw*) cannot be selected piecemeal, ignoring the basic principles of Islam. They must be examined comprehensively, prioritizing the teachings that are principled and subordinating partial matters that were illustrated by his life. Regarding women's issues, for example, references to the hadîth must be based on an awareness of the crucial values that he brought: the oneness of Allah, the equality of all human beings (rich and poor, men and women), justice and mercy.

Failure to do so will simply denigrate the noble mission of Muhammad's prophethood.

As noted by Imam al-Sarakhshî, (Muhammad bin Ahmad bin Sahl, d. 483H/1090AD), a great scholar of Islamic jurisprudence of the Hanafi school, the "verses of justice" are one part of the clearly stated law (*muhkam*) that is eternal, from the time of the Prophet Adam (*as*) until the end of time. They cannot change, nor can they be annulled. For this reason, they must be used as the primary reference when interpreting other verses whose understandings are open to a wide variety of interpretations (*mutashâbih)*. Each chapter in this book, analyzes the hadîth in this light. Chapter 1 discusses methodological approaches to reading the hadîth. This discussion is vital for activists and others interested in the struggle for gender justice from an Islamic perspective as it provides them with the interpretive tools and logic required for critical reading. Each chapter then focuses on specific subjects such as the right to education, political rights, social rights, marriage, and violence against women.

The English translations for Arabic terms are used to allow accessibility to the broadest range of Islamic scholars, with the Arabic term always following in parentheses. For further study,

researchers can find substantitive discussions of these terms in the various Islamic disciplines, namely *ushûl al-fiqh*, *ilm al-hadîth*, and *'ilm al-tafsîr*. For the readers' convenience, these terms are also listed in a special glossary at the end of the book.

Citations of verses from the Qur'an are in parentheses, giving the name of the *surah*, the number of the *surah*, and the number of the verse. Citations from the hadîth refer to the collections by prominent scholars in hadîth studies. When a name follows a hadîth, this means that the hadîth is in the collection of texts composed by that person. For example, a hadîth text followed by the citation (Bukharî), means that the text is to be found in the collection of Muhammad bin Isma'îl al-Bukharî (194-256 H/810-880 AD). Similarly, the citation (Muslim) refers to the collection of hadîth 'Sahih' by Muslim bin al-Hajjaj al-Qushairî (204-261 H/820-875 AD), (Tirmidhî) to the collection of hadîth 'Sahih' by Muhammad ibn Isâ Tirmidhî (209-279 H/824-892 AD), (Abû Dâwud) to the book 'Sunan' by Abû Dâwud Sulaymân bin al-Ash'ath al-Sijistânî (202-275 H/817-889 AD), (Ibn Mâjah) to the Book 'Sunan' by Muhammad bin Yazîd al-Qazwînî (209-273 H/824-887), (Nasâ'î) to the Book 'Sunan' by Ahmad ibn 'Aliy ibn Shu'ayb

al-Nasâ'î (215-303 H/830-915 AD), (Mâlik) to the Book 'al-Muwatta' by Mâlik bin Anas (93-179 H/712-792 AD), (al-Bayhaqî) to the Book 'Sunan' by Ahmad bin al-Husayn (384-458 H/994-1066 AD) and (Ahmad) to the Book 'al-Musnad' by Ahmad bin Hanbal (164-241 H/780-855 AD).

Most of these hadîth texts are taken from the collection 'six books' (kutub al-sittah), written by Ibn al-Athîr (Mubarak ibn Muhammad, 544-606 H/1150-1210 AD) i.e. the book *'Jâmi' al-Ushûl min Ahâdîth al-Rasûl'*, other texts have been taken from the Cd-Roms of hadîth collections which have been widely circulated in the Muslim world.

In order to make this text as accessible as possible to scholars from different faiths, when specific *ulama* are mentioned, their dates of birth and death are given according to the Islamic *hijrah* calendar, denoted by (H), and according to the Christian calendar, denoted by AD (*anno domini)*. As is commonly the case, when the year of birth is not known, the year of death is given. This information is particularly helpful for gaining a historical perspective on the development of Islamic jurisprudence.

I sincerely hope that this book will serve as a reference to strengthen our conviction that we should continually strive for justice, particularly

in terms of gender relations. In addition, for those readers who do not come from within the Islamic tradition, this book offers a clearer understanding of women's rights in Islam as derived from the hadîth. For instance, I often come across extremely negative statements regarding the status of women in Islam that refer to randomly chosen hadîths. The status of these hadîth is often weak, or even demonstrably false. In order to counter this impresssion, I present a large sample of hadîth that are popularly used as references in the Indonesian context.

I also hope that this book will further motivate all of us in our efforts to achieve justice by following the exemplary behavior of the Prophet Muhammad (*saw*), as a means for being kinder to each other and as an impetus to create a better future for all.

This book has come about through the help of many parties – help in the form of ideas to help sharpen the book's content, strengthen its methodology, and improve the choice of words and writing style, as well as material assistance for publishing the book. I have already mentioned some of those who have helped, but there are many more that I cannot mention individually, to whom I offer my sincerest thanks. Not withstanding my debt to all of the

above and the value of their support, the burden and responsibilities for the inadequacies in this publication are mine alone.

Cirebon, February 21st, 2007
Faqihuddin Abdul Kodir

Chapter 1

Interpreting the Hadîth

The hadîth are usually defined as actions in the form of words, deeds, or manifestations of approval that can be traced to the Prophet Muhammad (*saw*). Other terms used to refer to hadîth include *sunnah*, *khabar* and *athar*. The term *sunnah* is most common, which is why hadîth are sometimes also known as the *sunnah* of the Prophet. The literal meaning of *sunnah* is "way", or "road", and it is therefore often translated as "tradition" in the sense of a course of action commonly followed by the Prophet. *Khabar* literally means "news", and *athar* means "heritage". The term hadîth itself means "something that is new", or "something that is reported", but it has come to

refer to something reported from or about the Prophet: one of his utterances, one of his actions, or one of his decisions.

In the hierarchy of sources that are used as the basis for rulings under Islamic law, the hadîth texts rank second after the Qur'ân. According to Islamic legal theory *(usûl fiqh)*, Islamic law is the law of Allah and therefore must be based on God's revelations and words. The Qur'ân is the first source of Islamic law because it contains His direct and primary revelations. The hadîth serve as a clarification of the revelations contained in the Qur'ân. However, insofar as hadîth are also regarded as revelations, they are indirect and secondary and their accuracy is not necessarily guaranteed.

The accuracy of the Qur'ân as the very word of God as revealed to Muhammad, by contrast, is unquestionable. The accuracy of the text of the Qur'ân is guaranteed because the chain of transmission of the text from the time of its revelation to Muhammad to its being written down in definitive form included a large number of transmitters in each generation.

There is less certainty that hadîth texts contain accurate reports of the Prophet's actual words and actions simply because the number of individuals in each generation who orally relayed those reports from one person to the

next is smaller. In most cases, there were only one or two transmitters in each generation. The fewer the links between the Prophet's words and the permanent written record, the greater the possibility there is of a mistake, an omission, or an outright untruth. For that reason, the authenticity of the hadîth as a source for Islamic legal doctrine is considered less certain than that of the Qur'ân.

In his analysis of the sources of Islamic law, the ninth century scholar Muhammad ibn Idris al-Shâfi'i (150-204 H/767-819 AD) categorized the hadîth as "individual reports" (*al-khabar al-khâs)* in the sense that they were heard and reported by a limited number of individuals, sometimes only one. This differs from the Qur'ân, which Shâfi'i termed a "general" or "public report" (*al-khabar al-'âmm*) because it was heard, witnessed, and transmitted publicly and therefore accepted by and acceptable to all Muslims. The fact that knowledge of the Prophet's actions was much more limited than knowledge of the contents of the Qur'ân makes it more difficult to apply the terms of the hadîth to all Muslims. Thus the authenticity of the hadîth is "strongly presumed" rather than axiomatic. It is for that reason that Shâfi'i said, "We are not justified in demanding repentance of one who is doubtful as to the truth of a hadîth." [1]

The hadîth carry less legal authority than the Qur'ân but more than either the consensus of Muslim scholars (*ijmâ'*) or the process of analogy (*qiyâs*) which provide other sources of Islamic law. The authority of the hadîth as evidence of God's will derives from the fact that the Prophet Muhammad (*saw*) possessed a special understanding regarding the meaning of the Qur'ân and his own words, and thus these texts have prrimary significance as explanations and elaborations of the meaning of God's revelation.

The hadîth serve a number of different functions in relation to the Qur'ân. Sometimes they confirm the revelations given in the Qur'ân, sometimes they supply an interpretation of the Qur'ân, and at other times, they refer to new legal matters which are not mentioned in the divine revelation but which have to be judged in accordance with its basic spirit.

The individual (*ahâd*) character of the transmission of a hadîth is, of course, not an obstacle to its authority as a source of Islamic law. According to Al-Shâfi'î, even though a hadîth is the report of a single individual it can still be accepted and put into practice, just as the testimony of a single witness is sufficient in a court of law or as we rely on information from a single individual in daily life. However, he also

wrote that:

> ... If anyone can say that there is a consensus (*ijmâ*) by the religious scholars (*'ulamâ*) confirming the authority of hadîth, it should be me. But that is not the case, I only say that as far as I know the legal experts do not disagree (i.e., there is no *ijmâ*) that hadîth are a source for Islamic law. . . . [2]

In short, the authority of the hadîth is accepted by most but not all Muslim scholars (*'ulama*), while the Qur'ân, on the other hand, is accepted by all. For that reason, the authority of the hadîth only extend to matters of religious practice and not to matters of faith and creed.[3]

Studying the Transmission of the Hadîth

Initially, the hadîth simply referred to accounts of the Prophet's words and/or actions, and sometimes even to his silence whilst witnessing particular events. His companions listened to him and observed him and tried to emulate his conduct. In cases of uncertainty or ambiguity as to the significance of his conduct, they would ask for guidance. His responses took the form of clarification, suggestions, and even criticism. At that time, a hadîth consisted

solely of its content, the text (*matn*) or the message embodied in the Prophet's words or actions. After his death, a hadîth typically came to comprise two parts: the content and the chain of narrators, the latter being known as *sanad*. With the passage of time, the evaluation of the authenticity of a hadîth became more and more difficult. For example, in the following text refering to the content (*matn*) is emphasized in bold:

> It has come to us on the authority of Abû Kurayb, on the authority of Abdah ibn Sulaiman, on the authority of Muhammad ibn 'Amr, on the authority of Abû Salamah, on the authority of Abû Hurayrah that the Prophet has decreed: "**The best you can ever do is to treat your wife as well as you can.**" (Tirmidhî).[4]

Consequently, the study of hadîth involves an understanding of who the transmitters were as well as the content of the hadîth. A hadîth cannot be considered as the basis for a legal ruling without evaluating both of these aspects. The categorization of a particular hadîth consequently as valid (*sahîh*), and sound (*hasan*) or weak (*da'îf*), is thus based on the reliability of the content (*matn*) and on the narrative chain (*sanad*). In short, a hadîth is not considered to be valid, nor can it be implemented, until both its

sanad and *matn* have been subjected to critical evaluation.

The critique of the *sanad* and *matn* are inseparable in the narration and implementation of the hadîth. While this critical methodology has been employed by hadîth scholars from the early period of Islam, hadîth scholars typically concentrate on the transmitters of the hadîth while the Islamic legal (*fiqh*) experts focus on the content, that is on the text itself.

Critiquing the *sanad* involves investigating the integrity of the individuals named in the chain of transmission who bear responsibility for a *h*adîth narrative, from the last person in the chain who recorded the hadîth to the first person who had direct contact with the Prophet. In the evaluation of *sanad*, the links in the chain of transmission must all be directly connected to the previous narrator and each one must also meet a standard of integrity measured by his devotion (*thiqah*), honesty (*'adâlah*), and good memory (*dabt*).[5] Al-Shâfi'î added the requirement that the transmittors of a hadîth must comprehend its meaning.[6] If this is not the case, the hadith would be considered weak (*da'îf*), even if the deficiency relates to only one of the criteria in one generation of transmitters.

If one or more of the following defficiencies are found in a trasnmittor then a hadîth would

be described as 'weak', These deficiences are for those individuals who are: unknown by hadîth scholars; disapproved of by the scholars; considered as corrupt or of limited integrity; known to have produced invalid hadîth, or finally those who are known to have lacked sufficient knowledge of the particular text.

Critiquing the Hadîth's Texts

The accuracy of a chain of the transmission (*sanad*) is an absolute requirement, but it is nevertheless just one of two conditions for a hadîth to be accepted. The other necessary condition is the accuracy of its content (*matn*). Generally speaking, hadîth scholars agree that the validity of a *sanad* does not inevitably indicate that its *matn* is valid, and vice versa. As stated by the fifteenth century scholar, Ibn Qayyim al-Jawziyyah (Muhammad ibn Abi Bakr, 691-751 H/1292-1350 AD). "It is understood that the validity of a *sanad* is one condition for the validity of a hadith, but it does not automatically guarantee that the hadîth is valid."[7]

Thus while a *sanad* may satisfy the rigorous standards of critical analysis, this does not guarantee the truth of the message (*matn*). For instance, internal Inconsistency and confusion of the *matn* can add to the acknolwedged

weakness of a hadîth. Accordingly, from the beginning, hadîth scholars have conscientiously evaluated the *matn* of each hadîth for possible inconsistencies and confusion. These evaluations were subsequently further developed by Islamic legal scholars and theologians who often had a greater interest in the correct implementation of a hadîth, particularly when it affected the other foundations of the law, such as those from the Qur'ân, the consensus of Muslim scholars (*ijmâ'*) and analogical reasoning (*qiyâs*).

A hadîth is considered inconsistent when the text differs from a text related by another narrator with greater integrity, or when the text is inconsistent with another hadîth that is related by narrators with the same level of integrity but there are larger numbers of narrators. There are several types of inconsistencies in *matn*: they can take the form of additions to the text, an inversion, a manifest discrepancy, a writing error, or the inclusion of a narrator's interpretation within the hadîth itself.

For example, an inconsistency involving an addition to the text can be found in a hadîth narrated by Shu'bah (*ra*) as follows: "What act does Allah love above all else?" The Prophet is reported to have answered: "Performing prayers at the proper time". While a student of Shu'bah's referred to this hadîth with the phrase "at the

proper time," when 'Ali ibn Hafsh, related the same hadîth, he modified it through addition as follows: "at the beginning of the proper time."

However, as the narrator of the first text, which did not contain the phrase "the beginning of," was an individual of much greater integrity than the narrator of the second version and the number of narrators was larger, Bukhârî (a great hadîth scholar, 194-256 H/810-880 AD) preferred the first version. So did Dâruqutnî (306-385 H/919-995 AD)[8] and Nawawî of Damascus (631-676 H/1233-1277 AD) who also decided that the second version of the hadîth (prayer at the beginning of the proper time for prayer) is weaker and was therefore not acceptable.[9]

The second type of critique applied to *matn* is an evaluation of possible confusion (*'illah*) in the meaning of the text. Confusion weakens a hadîth. In his work *'al-Mawdû'ât al-Kubrâ'*, Ibn al-Jawzî ('Abd al-Rahmân ibn 'Aliy, 507-597 H/1114-1201 AD) mentions seven forms of confusion that occur in *matn*. These include inconsistencies with any of the following: a verse of the Qur'ân, a more valid hadîth, contrary historical fact, logic and inappropriate linguistic formulation. In addition, factors such as experience and reward or punishments for sin or or virtue associated with an insignificant act can inform the evaluation.[10]

The critique of the *sanad* and *matn* of reports that were related as hadîth has been recognized and practiced since the time of the companions of the Prophet. Indeed, the companions debated whether the validity and truth of accounts communicated among them should be confirmed. Some companions readily accepted accounts coming from other companions while others demanded verification in the form of the testimony of another person or an oath in support of the transmission. Some companions rejected hadîth related by their fellow companions because they were deemed not credible, considered to violate the demands of the Qur'ân, or because they were inconsistent with reason or historical fact.

At one point 'Aishah (*ra*), one of the wives of the Prophet (*saw*) became irate when she heard that Abû Hurayrah (*ra*) had related a particular hadîth in which the Prophet was reputed to have claimed that "the sources of misfortune are three: horses, women, and houses. "[11]

'Aishah argued that the Prophet could not possibly have made such a statement since it was inconsistent with the most fundamental principles of the faith which suggest that all things emanate from God. Accordinly, she read the following verse from the Qur'ân:

> No misfortune can happen on earth or in your souls but is recorded in a decree before. We bring it into existence: that is truly easy for Allah (Surah al-Hadîd, 57: 22).

Similarly, Umar ibn Khattâb (*ra*) once rejected a hadîth which he thought contradicted the teaching of the Qur'ân. He refused to accept a decision of the Prophet, narrated by Fâtimah bint Qays (*ra*), one of the companions, stating that a woman who has been divorced for a third time does not have the right to receive support in the form of food nor even accomodation from her former husband. In response to the hadîth, Umar (ra) stated, "We will not abandon the stipulations of Allah and his Prophet on the basis of the narrative of a woman who may be mistaken or have a faulty recollection." Allah has stated:

> O Prophet! When ye do divorce women, divorce them at their prescribed periods, and count (accurately) their prescribed periods: and fear Allah your Lord: and turn them not out of their houses…..". (Surah Al-Talâq, 65:1).[12]

The method of comparing hadîth reports with texts from the Qur'ân was developed most extensively by scholars from the Hanafi school, one of the four Sunni schools of Islamic legal thought. For them, Qur'ânic texts that have

a broad meaning (*âmm*) could not have their meaning narrowed down by a hadîth.[13] For example, the statement in the Qur'ân that any Qur'ânic verse may be recited in prayer (*Surah al-Muzammil*, 72: 20) must be understood to have a broad purpose fulfilled by the the recitation of any verse or chapter during prayer. The hadîth stating that the recitation during prayer has to include the opening chapter (*Sûrah al-Fâtihah*) cannot thus restrict the meaning of the Qur'ânic verse, which has always been broad. Accordingly, any verse may be recited instead of the *Surah Fatihah*.[14]

'Ulamâ often compare a *matn* with historical fact and with other hadîths in order to critically evaluate the hadîth. Shaykh Muhammad al-Ghazâlî (1917-1996 AD), a contemporary Muslim scholar, used this technique to critically assess a valid hadîth which suggests that it is preferable for women to perform their prayers in a secluded place.

> It is related by the wife of Abi Hâmid al-Sâ'idi's that she once appeared before the Prophet and said: "O Prophet, I take great pleasure in praying with you". But the Prophet answered: "I know that you are fond of praying together with me. But it is better that you perform your prayers in your bedroom than in your sitting room. It is better to perform your prayers in

> your sitting room than in your house. It is better to perform your prayers in your house than in the neighborhood mosque. It is better to perform your prayers in the neighborhood mosque than in my mosque. . . ."[15]

In critiquing this hadîth, Shaykh al-Ghazâlî argued that the *matn* does not accord with historical fact as shown by other, more valid hadîth which demonstrate that throughout the Prophet's lifetime his wives and his female companions regularly joined in congregational prayers without ever being excluded or reprimanded. Indeed, a special entrance had been constructed for women to enter the Prophet's mosque. On one occasion the Prophet heard a baby crying while he was leading the prayer. He quickly completed the prayers out of concern for the baby and its mother. Moreover, many women prayed at the mosque with the Prophet. An even more pointed indication of the inauthenticity of the hadîth is the fact that the Prophet issued a directive that women could not be prevented from entering the mosque.[16]

Understanding the Meaning of Hadîth

Through a critical reading of the *matn*, scholars seek to arrive at a more precise

appreciation of the meaning contained in the hadîth which can help to clarify the correlation between particular hadîth and other sources. A hadîth text, we need to remember, is also a linguistic text and its meaning is thus related to the structure, character, and vocabulary of the language in which it is expressed. Every language is a product of the culture it belongs to and functions within a cultural background. In addition, the communication of ideas by means of linguistic symbols, and the interpretation of those symbols by readers, entails an inevitable risk of diverse, incompatible, and even reductionist and distorted understandings. As a result, diversity of interpretation is inescapable.

This diversity in interpretation is something that the Prophet himself observed and acknowledged. That point is illustrated by an incident commonly cited by scholars of Islamic legal theory (*usûl al-fiqh*). As the companions were departing to return home after the battle of Ahzâb, the Prophet told them that no person was allowed to perform the first evening prayers (*'asr*) unless they had reached the village of Bani Quraizah.[17] Later, when the time for completion of the *'Asr* prayer was nearly past and a group of the companions had not yet reached Bani Quraizah, they fell into disagreement. Some insisted that they were not to perform the *`Asr*

prayer along the way, and that the prayer must be performed in Bani Quraizah as commanded by the Prophet, even if that meant praying after the proper time had passed. Others in the group were of the opinion that the Prophet had instructed them to pray in Bani Quraizah in order to encourage them to travel swiftly, and that the `*Asr* prayer should be performed at the proper time even if they had not yet reached the village.[18]

These two different approaches toward the interpretation of the hadîth - one literal and the other contextual - are also evident among the scholars of the generation after the Prophet and the companions within the disciplines of law (*fiqh*), exegesis (*tafsîr*), and religious doctrine (*'aqîdah*). Within law, for example, a *h*adîth regarding zakât was interpreted in different ways by different scholars. While some Shâfi'i scholars interpreted a hadîth regarding the obligation to provide wheat and dates at the end of the fasting month as establishing a fixed and unvarying requirement, others adopted a slightly broader interpretation of the hadîth, allowing payment with other staple foods besides those mentioned in the text.

The Hanafi School, however, interpreted the hadîth as imposing a more general obligation to fulfill the needs of the poor at the close of the

fasting month. According to this interpretation, the form of the *zakât* is unimportant. It can be paid in wheat, dates or other staples having equal value, provided that the needs of the poor are satisfied. Indeed, the *zakât al-fitr* can even take the form of cash equal to the value of wheat or dates, since the poor know best what their needs are, and cash can be used to supply those needs.

Similar differences regarding interpretive approaches have been adopted with respect to the hadith stipulating the payment of *zakât al-fitr* in the early morning, that is, the payment that should be made after sunrise but before the communal prayer of the first day after the end of the fasting month. Some scholars regard this as a hard and fast rule. Others interpret the text within the social context in which it was first articulated - that is, in which people lived simply, in small, close-knit communities, and had limited access to food. Now they suggest that charity can be distributed earlier too, including at the beginning of Ramadan. The only stipulation is that it be paid or delivered within the time frame specified by the Prophet which made it possible to collect and distribute the *zakât al-fitr*.

The Urgency of Contextualization

The discussion above illustrates that a particular hadîth can be given a literal, textual meaning or can be interpreted substantively according to its broader purpose. The use of a textual approach will generally have the effect of narrowing the scope of its application. To the extent that such approaches are used, the notion that Islamic law can be received and implemented at all times and in all places is both inaccurate and irrelevant. Nevertheless, calls to avoid such literal and simplistic interpretations of hadîth are heard with increasing frequency in the Muslim world.

It is in this context that Shaykh al-Ghazâli has sharply criticized the growing tendency to use an overly literal approach to the interpretation of the hadîth. In order to provide some guidelines for using interpretative as opposed to literal approaches, his student, Yusuf al-Qaradhâwi, a prominent contemporary Muslim scholar, proposed eight basic guidelines for arriving at a proper understanding of a hadîth text. The are as follows: compare the text with verses from the Qur'ân, compare the text with other hadîth that have similar themes, classify hadîth that are contradictory, investigate

the causes, circumstances, and purposes of particular hadîth, differentiate between hadîth that concern particular as opposed to a general matters, distinguish between hadîth that are material and metaphorical, distinguish between hadîth that concern the supernatural as opposed to those that concern the natural world, and finally, and most essentially confirm the literal wording of a hadîth.[19]

These guidelines are a blueprint for a contextualized interpretation of the literal terms of the hadîth. The words of a hadîth do not change. What changes is the conditions of social life within which the hadîth are implemented. Herein, the literal nature of a hadîth can be said to be understood in accordance with their respective context. That is the reason why the inquiry into the cause or circumstances that prompted the emergence of the hadîth, known as *'ilm asbâb al-wurûd*, has become such a critical area of investigation in hadîth studies.

The hadîth texts are historical records. As such, they are intimately connected to the social dynamics of Arab society at the time of the Prophet. Consequently, in light of the fundamentally contextual character of the hadîth, a number of scholars have adopted an understanding of the hadîth which is informed by the essential purpose of the text and the

root problem that it addresses. The meaning inscribed in the literal language of the text is not regarded as definitive and need not be applied in an unconditional manner. In essence then, as social contexts change, the essential purpose of a hadîth should be emphasized rather than its literal meaning.

Ibn Khaldûn (732-808 H/1332-1406 AD) illustrated this point with the hadîth that states, "Leadership is in the hands of the Quraysh." This hadîth must be understood within the context of the time. At that point in history, the Quraysh dominated the political sphere. However the hadîth, if contextually read, should refer to leadership qualities and not to eternal tribal hereditary rights to political office. Accordingly, later, as political power became more dispersed, even though the language of the hadîth remained the same, the texts did not provide a mandate for Quraysh hegemony but a comment upon the leadership qualities required for Muslim rule.[20]

Shaykh Muhammad al-Ghazâlî (1917-1996 AD) made the same point in connection with the hadîth that states, "A people that turns over leadership to a woman will never be happy." He argued that this hadîth must be understood in context, otherwise it does not accord with the reality that women have often achieved

positions of leadership in the world.

The above-mentioned hadîth addresses a situation in which a Persian queen was in line to succeed to the throne. At the time, the social and political circumstances in Persia were chaotic. It had been defeated by the Romans and there was a general state of unrest. The times demanded a leader who was strong, disciplined and had a deep understanding of the political problems at hand. The throne, however, was given over to a young woman, inexperienced and with little understanding of the realm's problems. In the hadîth, the Prophet was addressing these realities, and not delivering a legal ruling prohibiting women from holding positions of political leadership.[21]

According to Shaykh Muhammad ibn 'Ashûr (1296-1393 H/1879-1973 AD), other hadîth concerning prohibitions, particularly those referring to body ornamentation should also be understood within the context of Arab society at the time. He argues that these hadîth were revealed at a time when certain fashions such as particular hair styles, shaved eyebrows, the use of hair extensions marked women as commercial sex workers but that such practices cannot be considered eternally forbidden.

In other words, the prohibitions were not directed at specific markers of identity but rather

at the associated amoral behavior. After all, cutting one's hair or lengthening it, are simply ways to make oneself attractive. Thus if it is grooming that is to be prohibited, then all forms of grooming must be forbidden for everyone. But Islam allows us, including women, to make ourselves more attractive, provided it is not for the purpose of engaging in behavior that lowers our self-respect or inhibts justice.[22]

Principle of Justice

The Qur'ân emphasizes a number of aspects regarding the principle of justice as it relates to the relations between women and men. First, women and men are created from the same entity (*Surah al-Nisâ*, 4:1), and for that reason they are of equal standing. Second, both women and men have the obligation to live good lives and to do good works (*Surah Al-Nahl*, 16: 97). Third, women and men have the same right to be rewarded for their works (*Surah Al-Ahzâb*, 33: 35).

In interpreting the hadîth that deal with the relations between the sexes, these principles should be considered on a practical level. As it relates to marriage, for example, the implementation of the principle of justice includes, among other things, the consent of

both parties to the marriage contract (*Tarâdin*; *Al-Baqarah*, 2: 232-233), the assumption of responsibility (*al-amânah*; *Al-Nisâ*, 4: 48), a shared commitment to create a peaceful family life that is full of love (*Al-Rûm*, 30: 21), an obligation to treat each other with kindness (*mu'âsharah bil-ma'rûf*; *Al-Nisâ*, 4: 19) and consult each other in order to resolve problems (*mushâwarah*; *Al-Baqarah*, 2: 233; *Ali 'Imran* 3:159; *Al-Shûra*, 42:38), and lastly, to share the tasks of daily life in order to avoid saddling one party with an unfair burden.

These principles should serve as our guide in reinterpreting hadîth pertaining to the relations between men and women. Contemporary interpretations of many of these hadîth continue to engender inequality and unfairness in the relationship between men and women. This inequality, moreover, violates the most fundamental principles of the Qur'ân and the hadîth. For that reason, a reinterpretation of all the hadîth that address the relations between women and men is imperative in order to make the ideal of social justice embodied in Islam a practical reality.

Take, for example, the hadîth that prohibits women from going out by themselves. It states:

"It is impermissible for a woman who believes

> in Allah and the Day of Judgment to go out without being accompanied by a close relative (*mahram*) within the distance that can be covered in a journey of three days and three nights." (Bukhârî and Muslim).[23]

This hadîth should be understood as an effort to provide protection for vulnerable persons from the possibility of violence. At the time the hadîth was narrated, the category of those in need of protection included women. For that reason, women had to be accompanied by a close family member when they traveled long distances.

The presence of a close male relative (*mahram,* i.e. a male relative who is prohibited from becoming a marriage partner) is for protection and involves an obligation of such on the men's part. For instance, when the Prophet was told of a woman who wished to make the pilgrimage alone, he did not forbid her. Instead of prohibiting the woman from undertaking the journey alone, the Prophet reprimanded her husband, telling him to "go with and accompany your wife" (Bukhârî and Muslim).[24]

Thus we see that the objective of the hadîth is to guarantee personal safety. It stands to reason that all components of society would be under a common obligation to ensure the protection and security of the entire populace. In modern

society, the social order no longer depends upon self-help and communal solidarity, but on the existence of rational institutions and systems which include law enforcement and equal rights for all. Today, the state is expected to provide safety and protection for all of its citizens. Accordingly the hadîth need to be understood as having emerged from a tribal context in which the family, the clan and the tribe protected their own. Now that society has signifcantly changed, the challenge today is how to interpret and integrate these older directives and sanctions within emerging civil societies. In essence, the time honoured tradition of patriarchal authority is being significantly challenged by notions of gender equality and rule of law and the interpretation and application of the *h*adîth has thus become a topic of considerable contention.

Conclusion

The hadîth regarding relations between men and women are windows into a particular socio-cultural reality. These texts must therefore be understood to be based on the logic of the historical role they played in furthering justice and the general welfare of specific communities. As such, they oftentimes support a strongly gender biased social reality. For instance, some

of these texts include language that subordinates women in the most literal sense. Nevertheless, these texts should be understood in terms of their original socio-political contexts so that they can be interpreted and applied according to the broader transformative spirit that characterizes the Qur'ân and the hadîths as a whole.

In short, the ideals of justice and the welfare of the community are the foundational principles of Islam.[25] Arriving at a correct interpretation of texts which address the relations between men and women is only possible when those texts are aligned with Islam's foundational principles and current socio-political conditions in Islamic communities. Interpretations that are contrary to the principles of justice must be challenged and rectified.

A deep understanding and faithful implementation of the hadîth require that they be analyzed according to the exacting methods required by hadîth scholarship. As this chapter has accordingly considered, first, the *sanad* of a hadîth must be evaluated and then the hadîth must be classified as valid or invalid, strong or weak. Next, the *matn* of the hadîth must be critically examined in order to identify and assess any internal inconsistencies (*'illah*) or incoherence (*shudhûdh*).

In addition, the interpretation of hadîth texts

requires contextual knowledge. This involves arriving at an interpretation that is informed by and integrated with the social ideals that comprise the fundamental conceptual principles of Islamic *shari'ah.* Ibn Qayyim al-Jawziyyah (691-751 H/1292-1350 AD) established this criterion in the early Fourteenth Century when he wrote that the foundation of Islamic *Shari'ah* lies in its practical and egalitarian social ideals which include justice, welfare, mercy and wisdom for all without regard for gender, race, or nationality.[26] From this perspective, it is necessary to struggle against all forms of inequality and injustice in the relations between men and women which are not in keeping with the humanitarian ideals and divine mission of Islam.

Chapter 2

The Prophetic Mission

أَكْمَلُ الْمُؤْمِنِيْنَ إِيْمَانًا أَحْسَنُهُمْ خُلُقًا،
وَخِيَارُكُمْ خِيَارُكُمْ لِنِسَائِهِمْ خُلُقًا. (رواه الترمذي)

***"The believer who is perfect in faith is he whose behavior is best and those who are best to their wives."* (Tirmidhî)**[1]

Since childhood, the Prophet Muhammad (*saw*) had been known for his good conduct. So much so that in his youth, he was called *"al-Amîn,"* the trustworthy. As a result his Quraysh tribal elders trusted him to manage their trade and he prospered.

At the age of 40, he received his first prophetic message. Indeed, this was never an easy task, since the Prophet himself initially

doubed whether or not it was a genuine divine revelatory experience. The Prophet's initial doubt was mainly caused by his realization of the magnitude of this mission that he was about to embark on. It meant the total reconstruction of the life of humankind - "to take humankind away from darkness towards the light."

آلَرۚ كِتَابٌ أَنْزَلْنَاهُ إِلَيْكَ لِتُخْرِجَ النَّاسَ مِنَ الظُّلُمَاتِ إِلَى النُّوْرِ بِإِذْنِ رَبِّهِمْ إِلَى صِرَاطِ الْعَزِيْزِ الْحَمِيْدِ (إبراهيم، ١)

Alif Lâm Râ, A Book which We have revealed unto thee, in order that thou mightest lead mankind out of the depths of darkness into light - by the leave of their Lord - to the Way of (Him) the Exalted in power, worthy of all praise! (Ibrâhîm, 14: 1).

Clearly, the task that was assigned to the Prophet was not easy. It was only with the blessings and the help of Allah as well as the determination and the moral force of the Prophet himself that he finally accomplished his mission. Thus in many hadîth texts, prophethood is explained in these terms: "I have only been sent to perfect good morality."[2]

But what exactly is meant by perfecting good morality? Many have limited the interpretation of the word "morality", known as *akhlâq* to simply include appropriate etiquette and

courtesy. However, is it logical that the Prophet was assigned to this world only to mind these simple issues? Did the Prophet need to hesitate and shiver when he was asked to perfect humankind's morality if it merely involved etiquette?

While etiquette and good manners are inseparable parts of morality, morality encompasses a far broader field of values and activities. The word *akhlâq* is explained as deriving from *khuluq,* which belongs to the same word group as *khalq*. *Akhlâq* means something that is natural and part of one's personality. While *khalq* refers to one's physical creation, *khuluq* refers to the creation of someone's non-physical traits. In other words, *akhlâq* can be defined as the very basic traits that are attributed to an individual. Someone's *akhlâq* is categorized as good when he or she becomes well respected among other humans and as bad when others are negatively affected by it and subsequently show their disrespect towards this individual.

Improving the morality (*akhlâq*) of humankind was one of the key objectives of the Prophet Muhammad (*saw*)'s mission.

عَنِ النَّوَاسِ بْنِ السَّمْعَانِ الْأَنْصَارِي قَالَ: سَأَلْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْبِرِّ وَالْإِثْمِ، فَقَالَ: اَلْبِرُّ حُسْنُ الْخُلُقِ، وَالْإِثْمُ مَا

حَاكَ فِيْ صَدْرِكَ وَكَرِهْتَ أَنْ يَطَّلِعَ عَلَيْهِ النَّاسُ . (رواه مسلم والترمذي)

Nawwâs ibn Sam'ân (*ra*) said: "I asked the Messenger of Allâh (*saw*) about righteousness and sin. He replied: "Righteousness is good conduct and sin is something that is deeply rooted in your heart which you would not like anybody else to know about." (Muslim and Tirmidhî).[3]

Good morality was also the Prophet's last testament addressed to Mu'âdh ibn Jabal (*ra*) when the Prophet indicated that it is something that will benefit one on the Day of Judgment.[4]

عن أبي الدرداء رضي الله عنه، قال رسول الله صلى الله عليه وسلم: مَا مِنْ شَيْءٍ أَثْقَلُ فِي مِيْزَانِ الْمُؤْمِنِ يَوْمَ الْقِيَامَةِ مِنْ خُلُقٍ حَسَنٍ، وَإِنَّ اللهَ يُبْغِضُ الْفَاحِشَ الْبَذِيَّ . (رواه الترمذي)

Abî Dardâ, narrated that the Messenger of Allah (*saw*) said, "Nothing is heavier on the scale of a believing slave (of Allah) on the Day of Resurrection than good conduct. Indeed Allah dislikes the rude and disrespectful." (Tirmidhî).[5]

عن جابر بن عبد الله رضي الله عنه، قال رسول الله صلى الله عليه وسلم : إِنَّ مِنْ أَحَبِّكُمْ إِلَيَّ وَأَقْرَبِكُمْ مِنِّيْ مَجْلِسًا يَوْمَ الْقِيَامَةِ أَحَاسِنُكُمْ أَخْلَاقًا . وَإِنَّ أَبْغَضَكُمْ إِلَيَّ وَأَبْعَدَكُمْ مِنِّيْ مَجْلِسًا يَوْمَ الْقِيَامَةِ

الثَّرْثَارُوْنَ وَالْمُتَشَدِّقُوْنَ وَالْمُتَفَيْهِقُوْنَ. (رواه الترمذي)

Jâbir ibn Abdullâh (*ra*) narrated that the Prophet (*saw*) said, "The most beloved of you and the closest of you to me on the Day of Resurrection are the best of you in conduct. Surely, the most unbecoming of you to me on the Day of Resurrection are the talkative, the boastful, and the arrogant." (Tirmidhî).[6]

Among the key objectives of the Prophet's mission for humanity was guidance towards a life grounded on good morality, affection and free of violence, crudeness, and arrogance. This was further emphasized in another hadîth: "I have been only sent to spread affection, not condemnation." (Muslim).[7]

Ibn al-Athîr (544-606 H/1150-1210 AD) cited two hadîth concerning attitudes towards women regarding the implementation of the prophetic mission in encouraging good morality. The first hadîth was narrated by 'Aishah (ra). It related that the Messenger of Allah had said: "The believers with the most complete faith are the ones with the best character and the ones who treat their women the best."[8] The second hadîth was narrated by Abû Hurayrah (*ra*), that the Messenger of Allah had said: "The believer with the most complete faith is the one with the best character. And the best of them are those who

treat their women the best".[9]

Displaying good character towards women and/or wives is thus a foundational principle in Islam. In some hadîth texts, there are many accounts of women voicing their demands in response to the unfortunate circumstances they found themselves in, as a result of either their husbands' or families' bad conduct. They were not reluctant to take their complaints to the Prophet and to seek justice through him.

Though the main prophetic mission of the Prophet Muhammad was to encourage good morality, he taught that both men and women have equal obligations to uphold high moral values,that is, to honor, respect, and help one another, be they human beings or any other creature on earth. Yet, at the same time, he taught that all of us are obliged to voice our demands for justice, especially when we become victims of violence and oppression. In short, we have a responsibility to preserve our own and every one else's dignity and this is a responsibility intrinsically connected to the prophetic mission.

Calling for Justice

In the first years after the birth of Islam, the revelation came to be known as Great News. It

took all of Mecca's inhabitants by surprise. This revelation openly challenged and questioned the existing principles of faith, behavior as well as the very social structure itself. The revelation, in addition to teaching absolute monotheism, also taught the principles of social justice based in egalitarianism and collective solidarity. Naturally, this development was seen as a threat to the status quo then dominated by the Quraysh elite.

The notions of of monotheism and social solidarity had in fact already been expressed by several individuals before Islam. They were called *al-Hunafâ'* or nobles whose behavior was never questionable. Their voices, however, had yet to be transformed into a solid movement and were hardly regarded as a threat to the social structure of the Arab communities at the time.

The monotheistic Islamic mission only became a real social movement after the Prophet's (*saw*) revelation. Thereafter, prophethood was regarded as the foundation of Islam. It shaped a new faith, a philosophy of life and a code of ethics. From the outseit, social justice was central to the new religion. Consequently, the poor, slaves, and women were deeply involved in the emerging religion. For example, an ordinary woman called Sumayyah Umm 'Ammâr ibn Yâsir (*ra*) became the first woman to be martyred

in the defense of Islam. Fâtimah bint al-Khattâb (*ra*) even embraced this new faith earlier than her older and better known brother, Umar ibn al-Khattâb (*ra*). Likewise, Lubâbah bint al-Hârith al-Hilâliyah (*ra*) was known to have embraced Islam before her husband, 'Abbâs ibn 'Abd al-Mutallib (*ra*), did so.

Women's involvement was largely driven by the profound appreciation that Islam offered them dignity and protection, equality and solidarity. They were honored as being equal to men and as being equally servants of Allah. In time, discriminatory traditions which dominated the prior era of ignorance (*jâhiliyyah*) began to fall away within the religious community.

It is interesting to note that a number of women who were close to the Prophet actively expressed their discontent with the injustices existing in their lives. They continually challenged the Prophet by seeking answers to the kinds of problems they faced, either as wives or daughters or as members of a community. The affect that the Prophet's replies had on the men came to be reflected in the men's perceptions of change such as in the following statement attributed to 'Umar ibn Khattâb (*ra*):

كُنَّا فِي الْجَاهِلِيَةِ لاَ نَعُدُّ النِّسَاءَ شَيْأً فَلَمَّا جَاءَ الْإِسْلَامُ فَذَكَرَهُنَّ اللهُ رَأَيْنَا لَهُنَّ بِذَلِكَ عَلَيْنَا حَقًّا. (رواه البخاري)

> We used to perceive women as not significant until Islam came and Allah mentioned them in the Qur'ân. We soon realized that they too, like us, had their own rights (Bukhâri). [10]

On several occasions during the Prophet's life, Muhammad (*saw*), women's rights had clearly become an important issue. They were attempting to confront social imbalances such as the lack of access to education, domestic violence, the lack of women's involvement in the *jihâd*, the right to refuse pre-arranged marriages, and even the right for women to be able to ask for divorce.

For instance, in regard to education, Abî Sa'îd al-Khudrî (*ra*) narrated the following in one hadîth:

قَالَ النِّسَاءُ لِلنَّبِيِّ صلىَّ اللهُ عَلَيْهِ وَسَلَّمَ: يَا رَسُوْلَ اللهِ ذَهَبَ الرِّجَالُ بِحَدِيْثِكَ فَاجْعَلْ لَنَا مِنْ نَفْسِكَ يَوْمًا نَأْتِيْ فِيْهِ تُعَلِّمُنَا مِمَّا عَلَّمَكَ، فَقَالَ: اِجْتَمِعْنَ فِيْ يَوْمِ كَذَا وَكَذَا فِيْ مَكَانِ كَذَا وَكَذَا فَاجْتَمَعْنَ فَأَتَاهُنَّ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَعَلَّمَهُنَّ مِمَّا عَلَّمَهُ اللهُ .(رواه البخاري ومسلم)

> One day several women visited the Prophet Muhammad (*saw*) and said to him: "O Messenger of Allah, those men have deeply mastered the lessons you taught them, could you please spare your time to teach us, women,

what you have received from Allah?" The Prophet answered, "Certainly, please gather on this day and at this place." Then the women gathered in the specified place and learnt from the Prophet what he had received from Allah. (Bukhârî and Muslim).[11]

As for the issue of domestic violence, Iyâs ibn 'Abdillâh (*ra*) said:

قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ : لاَ تَضْرِبُوْا إِمَاءَ اللهِ فَجَاءَ عُمَرُ إِلَى رَسُوْلِ اللهِ صَلَّى اللهِ عَلَيْهِ وَسَلَّمَ فَقَالَ ذَئِرْنَ النِّسَاءُ عَلَى أَزْوَاجِهِنَّ فَرَخِّصْ فِي ضَرْبِهِنَّ فَأَطَافَ بِآلِ مُحَمَّدٍ نِسَاءٌ كَثِيْرٌ يَشْكُوْنَ أَزْوَاجَهُنَّ فَقَالَ رَسُوْلُ اللهِ : لَقَدْ طَافَ بِآلِ مُحَمَّدٍ نِسَاءٌ كَثِيْرٌ يَشْكُوْنَ أَزْوَاجَهُنَّ لَيْسَ أُوْلَئِكَ بِخِيَارِكُمْ . (رواه أبو داود)

The Prophet Muhammad said: "Do not beat the female servants of Allah." Umar then came to the Prophet and said, "I fear that they would disobey their husbands, so please allow us to beat them." Then so many women came to the family of the Messenger of Allah complaining about their husbands' behavior. The Prophet then said, 'These (husbands) are not the best of you.' (Abû Dâwud).[12]

These narrations depict how women during the time of the Prophet Muhammad (*saw*) actively objected to the injustices they experienced. Beliefs, rules, views, even language

used were often against their interest. At this stage they even believed that it was important to complain and question the new rules that they regarded as yet to be just. This included questions about the rules that were based on the transcendent authority through the revelation, despite knowing that the revelation was the sacred truth.

In a hadîth reported by Tirmidhî it is mentioned that Umm Salamah (*ra*), a companion and the wife of the Prophet Muhammad (*saw*), felt strongly about the discomfort of the situation which motivated her to voice her demand. She realized that Allah had not yet mentioned in any revelation the role of women in the hijrah, the forced migration to Mecca, despite the fact that a great number of women took part in it to support the struggle of and for Islam. She expressed her deep concerns to the Prophet Muhammad (*saw*), which led to the revelation of the following verse:

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّيْ لاَ أُضِيْعُ عَمَلَ عَامِلٍ مِنْكُمْ مِنْ ذَكَرٍ أَوْ
أُنْثَى بَعْضُكُمْ مِنْ بَعْضٍ فَالَّذِينَ هَاجَرُوْا وَأُخْرِجُوْا مِنْ دِيَارِهِمْ
وَأُوْذُوْا فِى سَبِيْلِ اللهِ وَقَاتَلُوْا وَقُتِلُوْا لَأُكَفِّرَنَّ عَنْهُمْ سَيِّآتِهِمْ وَ لَأُدْخِلَنَّهُمْ
جَنَّاتٍ تَجْرِيْ مِنْ تَحْتِهَا الْأَنْهَارُ ثَوَابًا عِنْدَ اللهِ وَاللهُ عِنْدَهُ حُسْنُ
الثَّوَابِ. (آل عمران، ١٩٥)

> And their Lord hath accepted of them, and answered them: 'Never will I suffer to be lost the work of any of you, be he male or female: Ye are members, one of another: Those who have left their homes, or been driven out there from, or suffered harm in My Cause, or fought or been slain,- verily, I will blot out from them their iniquities, and admit them into Gardens with rivers flowing beneath;- A reward from the presence of Allah, and from His presence is the best of rewards.' (Ali-'Imrân, 3: 195). [13]

In another hadîth narrated by Tirmidhî, Umm Salamah (*ra*) also complained to the Prophet Muhammad (*saw*) about the fact that men were allowed to collect the spoils of war, while the women were not assigned to wars and only received half of men's portion of inheritances. The following verse was then revealed:

وَلَا تَتَمَنَّوْا مَا فَضَّلَ اللّٰهُ بِهِ بَعْضَكُمْ عَلٰى بَعْضٍ لِلرِّجَالِ نَصِيْبٌ مِّمَّا اكْتَسَبُوْا ۗ
وَلِلنِّسَاۤءِ نَصِيْبٌ مِّمَّا اكْتَسَبْنَ ۗ وَسْـَٔلُوا اللّٰهَ مِنْ فَضْلِهٖ اِنَّ اللّٰهَ كَانَ
بِكُلِّ شَيْءٍ عَلِيْمًا. (النساء، ٣٢)

> And in no ways covet those things in which Allah hath bestowed His gifts more freely on some of you than on others: To men is allotted what they earn, and to women what they earn: But ask Allah of His bounty. For Allah hath full knowledge of all things." (al-Nisâ'4: 32). [14]

A similar objection was also voiced by Umm 'Ammârah al-Ansariyyah (*ra*): She said: "I came to appear before the Prophet Muhammad (*saw*), and said it seemed that everything was only entrusted to men. I did not see women mentioned or assigned to any role."[15]

The following verse was the revealed:

إِنَّ الْمُسْلِمِيْنَ وَالْمُسْلِمَاتِ وَالْمُؤْمِنِيْنَ وَالْمُؤْمِنَاتِ وَالْقَانِتِيْنَ وَالْقَانِتَاتِ
وَالصَّادِقِيْنَ وَالصَّادِقَاتِ وَالصَّابِرِيْنَ وَالصَّابِرَاتِ وَالْخَاشِعِيْنَ وَالْخَاشِعَاتِ
وَالْمُتَصَدِّقِيْنَ وَالْمُتَصَدِّقَاتِ وَالصَّآئِمِيْنَ وَالصَّآئِمَاتِ وَالْحَافِظِيْنَ
فُرُوْجَهُمْ وَالْحَافِظَاتِ وَالذَّاكِرِيْنَ اللهَ كَثِيْراً وَالذَّاكِرَاتِ أَعَدَّ اللهَ لَهُمْ
مَغْفِرَةً وَأَجْرًا عَظِيْماً. (الأحزاب، ٣٥)

> For Muslim men and women, - for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast, for men and women who guard their chastity, and for men and women who engage much in Allah's praise, - for them has Allah prepared forgiveness and great reward. (al-Ahzâb, 33: 35).

These citations show that several verses of the Qur'ân as well as some texts of the hadîth were revealed in response to dissatisfaction and demands of women which emerged as a result

of injustices in a society wherein women were often ignored and marginalized. During the early days of the Islamic society, all of these problems were addressed, either through the revelations or through the Prophet's conduct and leading example, which clearly reinforced the support towards women.

Towards an Equality

As a religion that has upheld justice from the very beginning, Islam is expected to continue to respond to the social, political, economic, and cultural imbalances which affect women so badly. In fact, whenever such imbalances occur, the negative impact is experienced not only by women but also by the community at large – from the family to the world community. In the education sector, for example, marginalizing women is likely to result in lowering their qualification level and in diminishing the role of women in public life. In many cases, the role of women is still greatly dictated by the authority of the culture in which they live. The role of women according to formal teachings or common laws is restricted to domestic affairs such as looking after the family and performing household tasks. Even when women are involved in public affairs, they are often positioned to

handle matters that still relate to family affairs such as teaching or nurturing, or to handle tasks that are complementary to men's jobs, despite the fact that they are able to handle all public matters.

The imbalances experienced by women are often caused by the ambiguity of a culture. On the one hand, women are being pushed away from becoming the public focus or public figures, but on the other hand, industrial cultures often regard them as commodities. On many occasions, women have been treated as commercial objects that are attractive by nature and a source of income at the same time. In a narrower sense, women are seen only as objects that are physically attractive and equipped with sexual organs and a womb. The ways of thinking concerning women are all related to the idea that their well-protected sexual organs are their only symbol of honor. Sadly, this image is formulated not in accordance with their aspirations, and without their full participation. All the rules that apply to their bodies and reproductive organs have in fact come not from the women themselves but from other individuals, including husbands, fathers, community, religious teachings, health institutions, and even the state, while women's voices and opinions are entirely ignored.

In many cultures, women are often positioned as "being owned" rather than "to own". This even applies in matters related to their personal interests, such as choosing a partner, marriage, intimate relationships, and other domestic issues. The position of "being owned" hinders women from becoming separate entities who have a body, spirit, feelings, wishes and goals. This image, to some extent, is likely to result in impairing women and making them vulnerable to various forms of violence, inside and outside their homes.

If political, social and cultural views are all in favor of discrediting women, the hope to produce qualified women would be difficult to achieve. Qualified women are in fact the basis for improving the quality of a nation. If their education level is low, their health is poor, their ability to manage is weak, and their intellectual capacity is low, then the generations to come, as well as the communities in which they live, will also become unqualified and weak.

If we believe that these imbalances are a form of injustice, then all kinds of efforts must be made to eliminate them. When oppression is directly or indirectly experienced by women, causing them to lose their dignity, their freedom to think, to express opinions, to refuse to be treated arbitrarily and insistence on being treated

as equal human beings, the jihad to defend their interests then becomes pre-eminent.

Ideally, this issue ought to be a priority of the Islamic preaching (*da'wah*) today. That is, the preaching that could revive the women's movement once again as elaborated by some texts of the hadîth from the days of the Prophet Muhammad (*saw*). In following the Prophet's example, this movement could be influential in the social, political, cultural and intellectual aspects of life. This includes broadening our – i.e. males – religious understanding to be more decent and just in perceiving women. In reality, such imbalances may have been influenced by or may influence the way a community understands its religion.

At an intellectual level this movement needs to involve the perspective of women themselves, while in the religious context, this perspective is shaped based on their real experience as to whether the rules of the religion are deliberately exploited to deny women their rights or used to protect them. Such a perspective would enable us to revisit our traditional way of interpreting the Islamic law. The fundamental views of Islam regarding this issue are first extracted from their sources, which are called the *sharî'ah*. This basis is then used to reformulate a new form of Islamic jurisprudence (*fiqh*) which is inclusive in nature

so that women as men would not fall victims to any injustice or any social imbalance. This perspective requires a new and comprehensive way of understanding the texts, both of the Qur'ân and hadith rather than the predominant current partial interpretation which bases certain Islamic laws on a single verse from the Qur'ân or a text of the hadîth.

Understanding *fiqh* comprehensively would allow us to relate our current preaching methods to the ones used by the Prophet, since both are clearly aimed at defending those who are being oppressed. With regard to the women's rights issue, a comprehensive understanding would certainly oblige us to defend women, while partial understanding might block any avenue towards understanding the messages of the Qur'ân that are in favor of freedom for all human beings from any oppression.

A comprehensive interpretation of such religious texts is the key to believing that *fiqh* – as the understanding of the religion – did come down through revelations and does carry some basic revelatory characteristics such as revealing the truth, upholding justice, and opposing all forms of tyranny and destruction. Therefore, it has to be confirmed that in practice, *fiqh* truly offers equal justice to women as it does to men.

When *fiqh* is openly used to preserve

social imbalances between the rich and the poor or between men and women, it is time for the intellectual advocacy which adopts the justice mission as carried out by the Prophet Muhammad (*saw*) to emerge. In this context, it is necessary to have an intellectual advocacy which regards comprehensive understanding of certain texts as vital for the sake of justice to women. This is a way to ensure that *fiqh* is built on the principles of justice and does not differentiate between men and women. It is also a way to ensure that women do not continue to fall victim to the cruelty of the existing social structure. The need for such a comprehensive interpretation or perspective derives from the belief that the Islamic mission is always directed towards upholding justice and serves as a blessing for the whole universe (*rahmatan li'l 'âlamîn*).

Chapter 3

Marital Relationship of Love and Mercy

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوْا إِلَيْهَا
وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِيْ ذَلِكَ لَآيَاتٍ لِقَوْمٍ
يَتَفَكَّرُوْنَ. (الروم، ٢١)

"And among His signs is this: that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your hearts. Undoubtedly in these are signs for those who reflect." (Al-Rûm, 30: 21).

In general, our initial motivation that brings us into marriage is the fulfillment of our sexual desire. However, this is not always the case. It is not uncommon to find marriages aimed at overcoming poverty, which often results in parents forcing their children, particularly

their daughters, to marry someone against their will. There are also marriages that are driven by political interests to enable someone to gain more power and authority.

"A woman", said the Prophet Muhammad (*saw*), "may be married for four reasons: for her property, her status, her beauty and her religion, so try to get one who is religious."[1] A marriage based on religious considerations is regarded as the most valuable in the view of the Prophet. If someone chooses to marry on this basis, then he or she will not in any way suffer any loss or be disadvantaged.

Why religion? The answer is that religion is, in fact, a factor which at the same time enables a married couple to reach out for the three other motives of marriage – beauty, wealth and social status. With religious considerations in place, the couple would be motivated to increase and adopt religious values into their own lives and into the family life that they are founding.

This may include an increase in formal religious rituals as well as other social duties relating to human interactions and relationships. A marriage which is based on positive-minded, affirming religious values is likely to stimulate affection, the sense of equal collaboration, good attitudes towards each other, and prosperity. A marriage that is built on the basis of religious

considerations is also very unlikely to turn into a relationship dominated by harassment, oppression and violence. Such religious morality would certainly allow the couple to live in peace as depicted by the Qur'ân as *sakînah, mawaddah wa rahmah* (full of love and peace).

How do we deal with the fact that many women who experience violence actually come from some very religious families? Likewise, so many marriages have failed despite the fact that the choice of partners was made based on religious considerations.

The Qur'ân has outlined several principles that guarantee the achievement of successful marriage. One of these requires that a husband-and-wife relationship ought to be a joint or a two-way relationship in which one side is equal to the other. In such an even and equal relationship, one side acts as a companion who completes the other, with no superiority or inferiority issues involved. The picture of such a harmonious and parallel relationship of husband and wife is portrayed in an extremely beautiful poetic language by the Qur'ân as in "your wives are a garment for you and you are a garment for them" (Al-Baqarah, 2: 187).

We know that garments represent the very basic need of humankind, providing us with honor, beauty and warmth. It could also cover

the imperfection of one's partner. This kind of husband-and-wife relationship is further described by the Qur'ân as a firm agreement (al-Nisâ, 4: 21).

Equal Responsibility

In order to build and preserve the values of such a firm relationship, the Qur'ân has also put in place other principles that require the two sides to treat each other respectfully (*mu'âsharah bi al-ma'rûf*, Surah al-Nisâ, 4:19), to fully love each other (*al-Rûm*, (30): 21), to build the feeling of acceptance or agreement (al-Baqarah, (2): 232-233), and to consult each other in any family affairs (al-Baqarah, 2:233).

The following Qur'ânic verses suggest some principles of how to create such a just and balanced relationship:

أُحِلَّ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفَثُ إِلَى نِسَائِكُمْ ، هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ. (البقرة ، ١٨٧)

Permitted to you, on the night of the fasts, is the approach to your wives. They are your garments and ye are their garments." (Al-Baqarah, 2: 187)

وَكَيْفَ تَأْخُذُوْنَهُ وَقَدْ أَفْضَى بَعْضُكُمْ إِلَى بَعْضٍ وَأَخَذْنَ مِنْكُمْ مِيْثَاقًا غَلِيْظًا . (النساء، ٢١)

How could you take it back, after you have been intimate with each other, and they had taken from you a solemn pledge?" (Al-Nisâ, 4: 21)

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَلاَ تَعْضُلُوْهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوْفِ، ذَلِكَ يُوْعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللهِ وَالْيَوْمِ الْآخِرِ، ذَلِكُمْ أَزْكَى لَكُمْ وَأَطْهَرُ، وَاللهُ يَعْلَمُ وَأَنْتُمْ لاَ تَعْلَمُوْنَ. (البقرة، ٢٣٢)

If a man has renounced his wife and she has reached the end of her waiting period, do not prevent her from remarrying her husband, if they have come to an honorable agreement. This is enjoined on every one of you who believes in God and the last Day. It is more honorable for you and chaster. God knows but you do not. (Al-Baqarah, 2: 232).

يَا أَيُّهَا الَّذِيْنَ آمَنُوْا لاَ يَحِلُّ لَكُمْ أَنْ تَرِثُوْا النِّسَاءَ كَرْهًا، وَلاَ تَعْضُلُوْهُنَّ لِتَذْهَبُوْا بِبَعْضِ مَا آتَيْتُمُوْهُنَّ إِلاَّ أَنْ يَأْتِيْنَ بِفَاحِشَةٍ مُبَيِّنَةٍ، وَعَاشِرُوْهُنَّ بِالْمَعْرُوْفِ. . . (النساء، ١٩)

O ye who believe! Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may take away part of the dower ye have given them,- except where they have been guilty of open lewdness; on the contrary, live with them on a footing of kindness and equity… (Al-Nisâ, 4: 19).

...فَإِنْ أَرَادَا فِصَالاً عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلاَ جُنَاحَ عَلَيْهِمَا ...

(البقرة، ٢٣٣)

… But if both desire weaning by mutual consent and counsel, they shall not be blamed on this account… (Al-Baqarah, 2: 233)

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوْا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِيْ ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُوْنَ. (الروم، ٢١)

And among His signs is this: that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your hearts. Undoubtedly in these are signs for those who reflect (Al-Rûm, 30: 21).

The above verses clearly depict the marital relationship as one of equal values as if one is a garment for the other. This is a very firm relationship that is built on the basis of willingness, acceptance and good interpersonal behavior dedicated to building a peaceful life (*al-sakînah*) and full of love (*al-mawaddah wa al-rahmah).*

These verses also teach us that marriage according to the Qur'ân is one that can satisfy one's partner's needs, completes what one's partner lacks, and allows both sides to share ideas and treat each other with respect. It is on the basis of these values that the Qur'ân criticizes the kinds of oppressive relations commonly found in the unjust practice of polygamy, which

often turns into a medium for a husband's ruthlessness toward his wife or wives.

Within the Islamic discourse, marriage is held to be a sacred relationship, viewed as a religious ritual that cannot be disrupted. It is certainly not wrong to consider marriage as religious duty (*'ibâdah*), since in the teaching of Islam every good deed that is done with sincerity can be equally rewarded as a religious ritual. However, if we think more critically, we will see that marriage in fact cannot be regarded as equal to other obligatory religious activities such as prayers and fasting. Rather, it is regarded as a space for negotiating rights and obligations. Thus, from the perspective of *fiqh*, marriage does not imply that women must unconditionally obey their husbands, as is the case with other religious duties.

Possibly, regarding marriage as sacred was initially intended to warn couples to be cautious in living their married life. With such assumptions in place, it is hoped that marriage would not be vulnerable to potential break-up or being demoralized and would not easily lead to divorce. However, in practice, being regarded as sacred has made it even more difficult for people to find the beauty in marriage. It could also lead to the limitation of freedom and make it much more complicated for couples to end

their marriage, especially when this becomes inevitable. The assumption that marriage is sacred is also responsible for the choices made by many couples, especially women, in marriage. This assumption tends to force them into marriage merely for the purpose of fulfilling their obligations, rather than to claim the rights that they are entitled to.

The *Sunnah* of Marriage

Apart from being considered a form of worship, marriage is often proclaimed to be the *sunnah* of the Prophet. It is even reported in a hadîth that "when a man marries, he indeed perfects half of his religion. Then he should fear Allah for the remaining half."[2] The text of this hadîth was narrated by Ibn al-Jawzî (507-597 H/1114-1201 AD) who himself regarded this hadîth as weak as did Ibn Hajar al-'Asqallanî (Ahmad ibn 'Aliyy, 772-852 H/1372-1449). The essence of this hadîth is mainly concerned with encouraging marriage and is found in variations of the same hadîth.[3] 'Âishah (*ra*) regards marriage as the *sunnah* of the Prophet:

اَلنِّكَاحُ سُنَّتِي فَمَنْ لَمْ يَعْمَلْ بِسُنَّتِيْ فَلَيْسَ مِنِّى وَتَزَوَّجُوْا فَإِنِّيْ مُكَاثِرٌ
بِكُمْ الْأُمَمَ وَمَنْ كَانَ ذَا طُوْلٍ فَلْيَنْكِحْ وَمَنْ لَمْ يَجِدْ فَعَلَيْهِ بِالصِّيَامِ،
فَإِنَّ الصَّوْمَ لَهُ وِجَاءٌ (رواه ابن ماجه)

> Marriage is my *sunnah* and whoever does not follow my *sunnah* is not my true follower. Get married, for I will be proud of you among the nations. Those who can marry should marry and those who cannot must fast, for it is their salvation (Ibn Mâjah).[4]

There is another similar version of this hadîth reported by Anas ibn Mâlik (*ra*) that is regarded as more valid since it is narrated by Bukhârî as the following:

> جَاءَ ثَلاَثَةُ رَهْطٍ إِلَى بُيُوْتِ أَزْوَاجِ النَّبِيِّ صلى الله عليه وسلم يَسْأَلُ عَنْ عِبَادَةِ النَّبِيِّ صلى الله عليه وسلم فَلَمَّا أُخْبِرُوْا كَأَنَّهُمْ تَقَالُّوْهَا، فَقَالُوْا: وَأَيْنَ نَحْنُ مِنَ النَّبِيِّ صلى الله عليه وسلم؟ قَدْ غُفِرَ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ وَمَا تَأَخَّرَ. قَالَ أَحَدُهُمْ: أَمَّا أَنَا فَأَنَا أُصَلِّيْ اللَّيْلَ أَبَدًا . وَقَالَ آخَرُ: أَنَا أَصُوْمُ الدَّهْرَ وَلاَ أُفْطِرُ. وَقَالَ آخَرُ: أَنَا أَعْتَزِلُ النِّسَاءَ فَلاَ أَتَزَوَّجُ أَبَدًا. فَجَاءَ رَسُوْلُ اللهِ صلى الله عليه وسلم فَقَالَ: "أَنْتُمْ الَّذِيْنَ قُلْتُمْ كَذَا وَكَذَا؟ أَمَا وَاللهِ إِنِّيْ لَأَخْشَاكُمْ لِلّٰهِ وَأَتْقَاكُمْ لَهُ، لٰكِنِّيْ أَصُوْمُ وَأُفْطِرُ، وَأُصَلِّيْ وَأَرْقُدُ، وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ عَنْ سُنَّتِيْ فَلَيْسَ مِنِّيْ" (رواه البخاري)

> A group of three men came to the houses of the wives of the Prophet asking how the Prophet worshipped (Allah), and when they were informed about that, they considered their worship insufficient and said, 'Where are we

> from the Prophet as his past and future sins have been forgiven.' Then one of them said, 'I will offer the prayer throughout the night forever.' The other said, 'I will fast throughout the year and will not break my fast.' The third said, 'I will keep away from women and will not marry forever.' Allah's Apostle came to them and said, 'Are you the same people who said so-and-so? By Allah, I am more submissive to Allah and more afraid of Him than you; yet I fast and break my fast, I do sleep, and I also marry women. So he who does not follow my tradition in religion is not from me (not one of my followers).' (Bukhârî).[5]

In this text, marriage is not the only issue being referred to as *sunnah*. Other activities such as sleeping, waking, eating, and fasting are also considered as *sunnah.* Ibn Hajar, in his commentary on this hadîth, states that what is referred as *sunnah* is actually the habit of the Prophet. Suggesting that those who are reluctant to get married are "not my followers" does not therefore mean that they are not Muslims.

Although it is stated in the text of this hadîth that marriage is considered as *sunnah*, it is not the only choice according to *fiqh* discourse. An individual may decide not to marry simply because he or she does have the needed desire to do so and thus prefers engagement in worship or study.

There is at least one hadîth that relates marriage to one's capability and suggests those who are not ready for marriage should fast. When marriage is related to one's capability, then it no longer remains the only option available. Marriage requires certain prerequisites to make an individual qualified for it. On the other hand, if such requirements are not fulfilled, then he or she is considered not ready or even forbidden to marry. Moreover, the hadîth narrated by Ibn Mâjah (209-273 H/824-887 AD) above explicitly mentions that for those who do not have the capacity to embark on a marriage, the alternative path for them is fasting.

There is another text of hadîth that is believed to be more valid. It is reported by Ibn Mas'ûd (ra) that the Prophet once said:

يَا مَعْشَرَ الشَّبَابِ، مَنْ اسْتَطَاعَ مِنْكُمْ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ اَغَضُّ لِلْبَصَرِ وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وِجَاءٌ

(رواه البخاري)

> "O young people! Whoever among you can marry, should marry, because it helps him lower his gaze and guard his modesty, and whoever is not able to marry, should fast, as fasting diminishes his sexual power." (Bukhârî).[6]

In this text, marriage is closely associated with someone's capability. This means that

whoever is not qualified or ready is not recommended to marry. In his commentary on this hadîth, Ibn Hajar (772-852 H/1372-1449) stated that those who are not capable of marriage are even advised not to marry. In some cases, marriage may be regarded detestable (*makrûh*) especially for those with such a problem. Within fiqh discourse, marriage is not necessarily considered recommended (*sunnah* or *mandûb*) because it relates to many various aspects, such as the readiness of the couples and the ability to provide the financial support.

Al-Imâm al-Ghazâlî (450-505 H/1058-1111 AD), for example, said that a person who is likely to benefit from marriage and would likely be safe from being humiliated after marriage should choose to get married. On the contrary, a person who is unlikely to benefit from it and would possibly not be able to avoid the humiliation is not recommended to do so.

According to most fiqh scholars, whether marriage is recommended or not depends on the circumstances that the couples are in; it could be obligatory (*wâjib*), detestable (*makrûh*), or forbidden (*harâm*). Ibn Daqîq al-'Îd (625-702 H/1228-1302 AD) explained that marriage could be regarded as *wâjib* if someone feels desperate to marry and not doing so could likely lead him or her to adultery. However,

marriage could also be *harâm* if one believes that it would cause humiliation to the wife, be it in fulfilling livelihood necessities of biological desire. Next, marriage could also be regarded as recommended (*sunnah*) if the person feels strongly that he or she can do without it but also feels that doing so would be more beneficial. If marriage does not benefit any one at all, marriage would be not recommended (*makrûh*).[7]

The statements from *fiqh* scholars imply that the well-known expression 'marriage is *sunnah*' should not be interpreted literally and should not apply to everyone. This statement serves more as motivational appeal so that anyone would consider marriage as something that could bring them the virtue and benefits. With such awareness, many would be encouraged and motivated to marry and would later try to keep improving the quality of their marriage. However, the reality could be the opposite, as a marriage could also result in humiliation and violence. Therefore, many *fiqh* scholars have been very conscientious in interpreting the expression "marriage is *sunnah*" in the real-life context.

Marriage could be considered as *harâm* when more fundamental issues in Islam are present such as upholding justice, fighting oppression and violence, instead of only being

concerned with whether one should marry or not. If a particular act would likely cause harm to anyone, it can be ascertained that such an act is principally forbidden in Islam. Therefore, a marriage that is likely to result in humiliation to any party -- woman, man, or both -- must be prevented and prohibited.

To avoid being considered as *harâm*, a prerequisite to marriage should first be taken into account. This can be accomplished by perceiving marriage as a social activity or an agreement between two parties. The involvement, willingness and commitment of the couple is crucial in order to guarantee that they will not suffer later on when they are officially married. The positive outcome of marriage would likely be achieved if both parties are aware of the fact that marriage only serves as an agreement between husband and wife aiming at guaranteeing their well-being and prosperity.

Marriage as an Agreement

According to Imâm Shâfi'î (150-204 H/767-819 AD), marriage cannot be regarded as part of religious worship, since it involves the fulfillment of human biological needs.[8] Within *fiqh* discourse, marriage is seen as an agreement

or a contract which must first meet certain conditions for it to occur, especially the existence of genuine willingness on both sides excluding any intimidation or the use of force.

Therefore if a person, either man or woman, is forced to be bound in a marriage contract (*nikâh*), that person is given the right to cancel it. 'Âishah (*ra*) narrated that a girl who came to visit her and asked:

عَنْ عَائِشَةَ رَضِيَ اللهُ عَنْهَا أَنَّ فَتَاةً دَخَلَتْ عَلَيْهَا. فَقَالَتْ: إِنَّ أَبِيْ زَوَّجَنِيْ مِنْ اِبْنِ أَخِيْهِ، لِيَرْفَعَ بِيْ خَسِيْسَتَهُ، وَأَنَا كَارِهَةٌ. فَقَالَتْ: اِجْلِسِيْ حَتَّى يَأْتِيَ رَسُوْلُ اللهِ عَلَيْهِ وَسَلَّمَ. فَجَاءَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَأَخْبَرَتْهُ فَأَرْسَلَ إِلَى أَبِيْهَا فَدَعَاهُ. فَجَعَلَ الْأَمْرَ إِلَيْهَا. فَقَالَتْ: يَا رَسُوْلَ اللهِ، قَدْ أَجَزْتُ مَا صَنَعَ أَبِيْ، وَلَكِنْ أَرَدْتُ أَنْ أَعْلَمَ النِّسَاءَ: أَنَّ لَيْسَ لِلْآبَاءِ مِنَ الْأَمْرِ شَيْئٌ. (رواه النسائى)

"My father has forced me into marrying my cousin in order to raise his own social status (in the eyes of the people), but that is against my will." "Have a seat, the Prophet will soon be here, I'll ask him for you," said 'Âishah. When the Prophet arrived, 'Âishah (*ra*) explained the problem. He then called the parents of the girl (and gave them a warning). The Prophet then gave her the right to repudiate the marriage. In front of them she firmly said: "I accepted what my father has done, but my aim, was to

> let the women know that parents have no right to interfere in this matter." (Nasâ'î).[9]

Earlier we referred to a hadîth relating to the forced marriage of Khansâ bint Khidâm (*ra*) and the Prophet gave her freedom to withdraw from the marriage. In another narration, Ibn 'Abbâs (*ra*) mentioned:

> أَنَّ جَارِيَةً (بِكْرًا) أَتَتْ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَذَكَرَتْ أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ كَارِهَةٌ، فَخَيَّرَهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ (رواه ابن ماجه)

> A virgin came to the Prophet and said that her father had forced her into marriage against her will, so the Prophet gave her the right to repudiate the marriage." (Ibn Mâjah).[10]

The texts of these hadîth imply that marriage is not something that can be forced and that women should be free to choose whether or not to agree to marriage and to choose their partners. By the same token, after marriage, both men and women should have rights to decide whether to continue or stop the agreement they previously made. The discontinuation of marriage can be justified due to the presence of reasons that reduce or destroy the meaning of togetherness. In *fiqh* discourse, this process is known as *talâq* (divorce) or *khulu'* (the request for divorce).

However, it is strongly urged that both men and women work together to their best of their abilities to avoid seeking divorce, since it is something that is most disliked by Allah The Almighty. In reality often one is faced with a situation that forces the husband or wife to consider getting a divorce.

In a hadîth narrated by Ibn 'Abbâs (*ra*), it is mentioned that the wife of the Prophet's (*saw*) companion Thâbit ibn Qays (*ra*) once visited the Prophet and asked:

يَا رَسُوْلَ اللّٰهِ، ثَابِتُ بْنُ قَيْسٍ مَا أَعِيْبُ عَلَيْهِ فِى خُلُقٍ وَلاَ دِيْنٍ، وَلٰكِنِّي أَكْرَهُ الْكُفْرَ فِى الْإِسْلاَمِ، فَقَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ: أَتَرُدِّيْنَ عَلَيْهِ حَدِيْقَتَهُ؟ فَقَالَتْ: نَعَمْ، فَقَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ: اقْبَلِ الْحَدِيْقَةَ وَطَلِّقْهَا تَطْلِيْقَةً. (رواه البخاري)

"O Prophet of God, I am not downgrading his behavior and his religion, but I do not want to belittle the teachings of Islam." The Prophet asked: "Do you want to return his farm? and she answered 'Yes'. Therefore, the Prophet said "Accept the farm, Thâbit and give her one talaq." (Bukhârî).[11]

Based on several texts of hadîth mentioned above, we can conclude that marriage is the right of everyone, both men and women. Since it is one's right, everyone must be given freedom to

choose the person who he or she believes could guarantee their wellbeing and could protect them from humiliation. Everyone deserves to hope for a promising married life. Therefore, all the existing social systems that are concerned with marital affairs must be accordingly adjusted so that the happiness sought in marriage can be achieved. If an existing social system or value is believed to no longer guarantee happiness to both husband and wife, or it allows them to suffer in their marriage, then such a system or value must be replaced.

As illustrated in *Sûrah al-Rûm* above, one of the goals of marriage is to lead a life that is full of love and peace. Anyone – be it men or women – deserves to achieve an ideal married life. This can only be obtained if marriage is seen as an agreement equally vowed by both men and women. ❁

Chapter 4

Marriage, Having Sex and Violence

مَا ضَرَبَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَيْئاً قَطُّ بِيَدِهِ، وَلاَ امْرَأَةً وَلاَ خَادِمًا (رواه مسلم)

"The Prophet (pbuh) never beat anybody with his hands, not a woman nor a servant" (Muslim).[1]

In Islam, the fulfillment of sexual needs is discussed only within the framework of marriage. It is quite surprising that even though in ideal terms Muslims define marriage as something sacred, and therefore the issue of sex seldom comes to the surface, in *fiqh* the discussion of marriage actually focuses on the fulfillment of sexual needs. The core of the

discussion in the framework of *fiqh* relates to who has the greater right to obtain sexual satisfaction from a marriage. Using a reciprocal conceptual framework, *fiqh* discusses the causal relation between the sexual services provided by the woman and the dowry paid by the man when he makes his wedding vows. The implications of this are far-reaching: if divorce occurs shortly after the wedding, the repayment of the dowry depends on the extent to which they have had sexual relations. If they have never had sexual relations, the wife's family is obliged to return the entire dowry to the husband's family, while if they have had relations; the wife's family is only required to repay half of it.

There are in fact two different definitions in *fiqh* regarding a marriage in connection with a woman's position vis-à-vis fulfillment of her husband's sexual needs. First, marriage is defined as an ownership agreement (*'aqd al-tamlîk*) and second, marriage is an agreement that stipulates authority/right to use (*'aqd al-ibâhah*). When marriage is defined as an ownership agreement, this recognizes the man's ownership of the woman (and her genitals). In contrast, when marriage is defined as an authority/use agreement, this means that the man only obtains the right to the use of the woman's sexual organs. We can see from this that in the perspective of

fiqh, in both definitions, the woman is treated as merely an object of the man's interests.

There are several hadîth that deal with sexual services in relation to women.

إِذَا دَعَا الرَّجُلُ اِمْرَأَتَهُ إِلَى فِرَاشِهِ، فَأَبَتْ أَنْ تَجِيْءَ فَبَاتَ غَضْبَانَ: لَعَنَتْهَا الْمَلاَئِكَةُ حَتَّى تُصْبِحَ (رواه البخاري)

> If a husband invites his wife to have intimate relations and the wife refuses, making the husband angry all night, then the wife will be cursed by angels until the morning. (al-Bukhârî, Muslim and Abû Dâwud).[2]

Looking at the sources of the above hadîth, a majority of `*ulama* consider this hadîth as valid (*sahîh*), at least in respect of its *sanad*. Ibn Hajar al-'Asqallânî (772-852 H/1372-1449 AD) in the book *Fath al-Bârî* fully supports the validity of this hadîth and says that several other hadîth provide confirmation for this one:

وَالَّذِيْ نَفْسِى بِيَدِهِ، مَا مِنْ رَجُلٍ يَدْعُوْ اِمْرَأَتَهُ إِلَى فِرَاشِهِ إِلاَّ كَانَ الَّذِيْ فِى السَّمَاءِ سَاخِطاً عَلَيْهَا حَتَّى يَرْضَى عَنْهَا (رواه مسلم)

> By the One who controls my life, (when) a person calls his wife to bed (for intimacy) and the wife refuses him, all that is in the heavens will curse the wife until the husband forgives her. (Muslim).[3]

Another supporting narration comes from

from Jâbir ibn Abdullâh (*ra*):

ثَلاَثَةٌ لاَ تُقْبَلُ لَهُمْ صَلاَةٌ وَلاَ يَصْعَدُ لَهُمْ إِلَى السَّمَاءِ حَسَنَةٌ: اَلْعَبْدُ الآبِقُ حَتَّى يَرْجِعَ، وَالسَّكْرَانُ حَتَّى يَصْحُوْ، وَالْمَرْأَةُ السَّاخِطُ عَلَيْهَا زَوْجُهَا حَتَّى يَرْضَى (رواه ابن خزيمة وابن حبان)

> There are three (types of) persons whose (*salah*) Allah will not accept and whose good deeds will not rise to heaven: (1) a slave who runs away from his master, until he returns, (2) a drunken person, until he regains sobriety, and (3) a woman who angers her husband, until she is forgiven. (Ibn Khuzaymah and Ibn Hibbân).[4]

In Bukhâri's transmission, this hadîth does not include the words "making her husband angry all night". However, in other transmissions, this phrase is mentioned as the reason that brings on the angels' curses.

Interpreting the Curse of Angel

In interpreting the above hadîth, it can be taken simply to mean that a wife is obliged to comply with her husband's invitation to sexual activity and that if she refuses, she is considered to be cursed by angels. If we use the hadîth in Bukhari's transmission, which does not mention that the curse arises because the husband is angry

then the hadîth could be taken to mean that the curse will last with no time limit. Basically, once the wife refuses, the angels' curse descends.

From these two interpretations of this hadîth, we see that whether a curse befalls the wife or not depends on whether the husband is angry or not. Thus, it is clear that what determines whether the wife has committed a sin or not, and whether the angels curse her or not, is the emotions of the husband.

If we analyze the *fiqh* interpretation of this hadîth more deeply, it is clear that a wife's primary duty is to meet her husband's sexual needs. In the logic of *fiqh*, the existence of this obligation for the wife is a logical consequence of the husband's legal obligation to provide her with sustenance (*nafaqah*). The husband incurs the obligation to provide sustenance so that he can earn the right to enjoy his wife's body. Thus, a wife who wants the right to provision of sustenance must, in compensation, serve her husband's sexual needs.

The consequences of this *fiqh* logic that relates a husband's provision of subsistence with the wife's sexual services are far-reaching. For example, if the wife is not yet physically ready for intercourse because she is still too young, or if she commits a crime and is imprisoned, or if she rebels against her husband's request for sex,

then, according to *fiqh*, her husband's obligation to provide for her subsistence automatically lapses. Furthermore, if a wife goes off somewhere without her husband's permission and is therefore unable to fulfill her husband's sexual needs, she is not entitled to demand that her husband provide for her needs. [5]

The question, then, is whether there are any views within *fiqh* that are more empathetic toward a woman's sexual needs. Is it true that a woman sins and is cursed simply by rejecting her husband's advances? We can present the views of several *`ulama* in this regard. For Ibn Hajar, the curse is incurred if the rejection makes the husband angry. This is because sexual relations are the husband's right. But if he accepts the situation and forgives her, the rejection does not lead to a curse and does not incur any sin.

Still according to Ibn Hajar, an act of rejection is considered a sin if the rejection lacks a valid cause such as cruel treatment by the husband. Ibn Hajar bases this opinion on the phrase *hâjiratan firâsahâ*, which means that the woman consciously and deliberately abandons her husband. Thus, the angels' curse descends when a woman deliberately rebels and rejects her husband's invitation to have sex.[6]

Several contemporary *`ulama* have other ways of interpreting the curse incurred in the

context of this hadîth. Wahbah al-Zuhaylî, for example, says that the curse is incurred for rejection without valid reason, and not because she is fulfilling a religious obligation. Taken in reverse, Zuhayli's statement can be interpreted to mean that a wife is entitled to reject her husband's call for sexual activity if it is certain to hurt her, or if she is engaged in fulfilling a religious obligation.[7]

Reading it this way, we can see that a woman's sexual services for her husband are not a matter of absolute submission. There are still opportunities for the woman to enjoy sexual relations, or to refuse them.

With this type of reading, the hadîth that stresses a wife's total obedience can be criticized and reinterpreted, particularly hadîth such as this one:

إِذَا دَعَا الرَّجُلُ زَوْجَتَهُ لِحَاجَتِهِ فَلْتَأْتِهِ، وَإِنْ كَانَتْ عَلَى التَّنُّوْرِ، وَفِى رِوَايَةٍ وَلَوْ كَانَتْ عَلَى ظَهْرِ قَتَبٍ (رواه الترمذي)

> If a man invites his wife to have intimate relations, the wife must comply even if she is in the kitchen; in another transmission it says even if she is riding on the back of a camel. (Tirmidhî).[8]

The text of this hadîth has different meanings when examined using a linguistic

analysis. In the transmission of Imâm Ahmad (164-241 H/780-855 AD), the word used is *falya'tihâ*, not *falta'tihî*. The text is: "If you wish to fulfill your biological needs with your wife, come to your wife, even if she is in the kitchen"[9] This difference in pronunciation and writing between the transmission of Tirmidhî, who writes *fal ta'tihî* and that of Ahmad, who writes *fal ya'tihâ*, is in the science of hadîth considered a serious discrepancy (*'illah*) that can reduce the level of a hadîth to weak (*da'îf*).

This difference in reading may seem simple, but when a linguistic analysis is used it produces vastly different interpretations for the two versions. In the first version of the hadîth (*fal ta'tihî*), this hadîth can be taken to mean that the wife is obliged to fulfill her husband's biological needs anywhere and at any time; the wife has no right to refuse. But in the second version (*fal ya'tihâ*), the hadîth urges a man to fulfill his biological needs only with his wife, even if she is in the kitchen. This implies a legal permission for a man to indulge his sexual needs with his wife even when she is in the kitchen, and does not assert a wife's total obedience in fulfilling her husband's needs.

Here we see that if we look more deeply, there is in *fiqh* much more space to allow fulfilling a wife's rights to sexual enjoyment.

Ibn Hajar (772-852 H/1372-1449), quoting the opinion of Ibn 'Abd al-Barr (Muhammad ibn 'Abd al-Barr, 707-777 H/1307-1375 AD), for example, says that intimate relations are a right of the wife, and that she has the right to demand satisfaction from her husband. This opinion was presented when explaining about the prohibition on a husband's engaging in coitus interruptus (*'azl*) without the wife's permission. In his view, such an act could reduce or even deny the wife's sexual enjoyment. Yet the wife, like the husband, has the right to sexual pleasure from her partner. Ibn Hajar also notes that there is another transmission from Imâm Mâlik (93-179 H/712-792 AD) which also says that a wife is entitled to demand sexual relations from her husband if the husband deliberately withholds such activity to hurt the wife. In this context, Ibn Hazm ('Aliyy ibn Ahmad, 385-456 H/994-1064 AD) makes it clear that a husband has an obligation to provide sexual relations to his wife.[10]

Here we see that *`ulama* of *fiqh* are in fact quite open in discussing women's sexual rights. The issue of women's sexuality is discussed by some *fuqaha* using reasonable and humane logic. This should serve as a basis for reconstructing the concepts of sexuality that have existed within the community. The assumption that

men are aggressive and women are passive needs to be reexamined. Is this really true? And what are the consequences if this assumption continues to be propagated and reproduced through religious values? Does not this simply perpetuate the sexual oppression of women? The sexual labeling of women as passive and of men as aggressive is actually quite at odds with the wide range of characteristics of both men and women, as also captured by the variety of views in *fiqh* when discussing this issue.

Sexual activity can be interpreted in *fiqh* in different ways. It can refer simply to matters of the body and of biological needs, but it can also be much more than that. Sexual activity can also be interpreted as the fulfillment of a human being's duties and as a form of spiritual upliftment that can bring spiritual blessings. All of this is possible when sexual relations occur without coercion or violence.

قال رسول الله صلى الله عليه وسلم: وَفِي بُضْعِ أَحَدِكُمْ صَدَقَةٌ.
قَالُوا: يَا رَسُوْلَ اللهِ أَيَأْتِي أَحَدُنَا شَهْوَتَهُ وَيَكُوْنَ لَهُ فِيْهَا أَجْرٌ؟ قَالَ:
أَرَأَيْتُمْ لَوْ وَضَعَهَا فِيْ حَرَامٍ أَكَانَ عَلَيْهِ وِزْرٌ؟ قَالُوْا: بَلَى. قَالَ: فَكَذَلِكَ
إِذَا وَضَعَهَا فِي الْحَلَالِ كَانَ لَهُ فِيْهَا أَجْرٌ. (رواه مسلم)

The Prophet *(saw)* said: "Even in your sexual organs there (can) be (reward for) charity".

> (The companions) asked: "O Prophet, does a person who fulfills his sexual desires earn spiritual rewards?" The Prophet answered: "What if (meeting the needs of) the sexual organs be (done) in a forbidden (*harâm*) way, does he not incur a sin?" "Yes," they replied. "Likewise then, if (a person meets his sexual needs) in a lawful (*halâl*) way, he gains a blessing." (Muslim).[11]

The text of this hadîth confirms that just like the other organs of the body, even through the sexual organs, a person can earn reward – that is, when the sexual organs are used in a recommended way, in proper sexual relations within marriage. Such permitted sexual relations will certainly bring merit when performed with a full sense of respect for the interests and needs of both parties, and that can only happen when such relations are fostered in a family life full of love, mutual giving and mutual help, with both parties striving to please one another in all things they undertake, including the fulfillment of sexual needs.

Towards Free-violence

No matter how much affection is dedicated to founding a new married life, marriage will not go smoothly forever. In this respect, differences and arguments should not lead to one side

being hurt. Instead, the differing opinions in marriage should be handled wisely to find the common ground for a mutual understanding and for identifying each other's strengths and weaknesses. These differences, in fact, should encourage men and women to understand each other and to ensure that there will be no dominant power of one side over the other. In the married life of the Prophet as documented in many hadîth and in the *sirah* (the history of the Prophet), such differences and arguments also occurred. Even the most intense conflicts, however, was never dealt with by the Prophet with violence.[12]

In a number of verses of the Qur'ân, Allah illustrates the family life of the Prophet, which was not entirely free of arguments and disputes, especially between 'Aishah (*ra*) and Hafsah (*ra*) as wives on one hand, and between them and the Prophet as a husband on the other. Instead of putting his wives under pressure, he chose to give them freedom to decide whether to stay in the relationship with him or to end it.

يَأَ ايُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ إِنْ كُنْتُنَّ تُرِدْنَ الْحَيَاةَ الدُّنْيَا وَزِيْنَتَهَا
فَتَعَالَيْنَ أُمَتِّعْكُنَّ وَأُسَرِّحْكُنَّ سَرَاحًا جَمِيْلاً. وَإِنْ كُنْتُنَّ تُرِدْنَ اللهَ
وَرَسُوْلَهُ وَالدَّارَ الْاٰخِرَةَ فَإِنَّ اللهَ اَعَدَّ لِلْمُحْسِنَاتِ مِنْكُنَّ أَجْرًا
عَظِيْمًا (الأحزاب، ٢٨-٢٩)

> O Prophet! Say to your wives: "If it be that you desire the life of this World, and its glitter, - then come! I will provide for your enjoyment and set you free in a handsome manner. But if you seek Allah and His Messenger, and the Home of the Hereafter, verily Allah has prepared for the well-doers amongst you a great reward. (al-Ahzâb, 33: 28-29).

In his marriage, it was not rare for the Prophet to find his wives' behavior in contrast with his own desire. Nevertheless, he always sought to solve the problem wisely, such as by giving them time to think about it, reflect on it and make their decisions on their own terms. The Prophet never showed his anger by using coarse language, let alone by beating women or turning to violence. The Prophet was too noble to do such a thing. The most he could do was to leave his wives and stay in the mosque for up to a month. This is the kind of teaching that was put into practice by the Prophet amongst his wives; a way of treating women as human beings.

However, the examples given by the Prophet were not necessarily followed by his companions at the time. There were a number of them who still treated their wives arbitrarily, including beating and torture. In response to this phenomenon, the Prophet (*saw*) personally

warned his companions as narrated in the following hadîth. Iyâs ibn 'Abdillâh ibn Abî Dhubâb (*ra*) reported that the Prophet said:

لاَ تَضْرِبُوْا إِمَاءَ اللهِ، فَجَاءَ عُمَرُ إِلَى رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: ذَئِرْنَ النِّسَاءُ عَلَى أَزْوَاجِهِنَّ فَرَخَّصَ فِى ضَرْبِهِنَّ، فَأَطَافَ بِآلِ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءٌ كَثِيْرٌ، يَشْكُوْنَ أَزْوَاجَهُنَّ، فَقَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: لَقَدْ طَافَ بِآلِ مُحَمَّدٍ نِسَاءٌ كَثِيْرٌ يَشْكُوْنَ أَزْوَاجَهُنَّ، لَيْسَ أُوْلَئِكَ بِخِيَارِكُمْ (رواه أبو داود)

"Do not beat Allah's handmaidens," but when Umar came to the apostle of Allah and said: "Women have become emboldened towards their husbands," he (the Prophet), gave permission to beat them. Then many women came round the family of the apostle of Allah complaining against their husbands. So the apostle of Allah said, "Many women have gone round to Muhammad's family complaining against their husbands. Those husbands are not the best among you." (Abû Dâud).[13]

Despite the fact that these companions had been advised by the Prophet not to mistreat their wives, several Muslim scholars still do not seem to learn from the hadîth and seem to choose to regard such behavior as the rights of husbands in educating their wives. Shaykh Nawawi of Banten (Muhammad ibn 'Umar, d.

1314H/1897AD), for example, listed in his book '*Syarh Uqûq al-Lujjayn*' several reasons that allow a husband to beat his wife. These include the wife's refusal to dress when the husband asks her to do so, her refusal to immediately engage with her husband in sexual intercourse, going out without her husband's permission, tearing her husband's garment, touching her husband's beard, saying the word 'donkey' or 'stupid' to her husband even when he has just shouted at her, showing her face to others, talking to a non-*mahram* (person other than a close relative she may not marry), talking to her husband loudly so that others can hear, or giving away something to others from the house of her husband which she should have kept or taken care of. [14]

However, the majority of ulama (Islamic scholars) -including Shaykh Nawawi of Banten– agree on the notion that the beating is allowed if it is still within its limits. In the language of fiqh, such beating is described as *darban ghayr mubarrih (*not causing any injury). A number of ulama also strictly forbid beating wives at certain parts of their body such as face, bones and vital organs. In the tafsir *Jâmi' al-Bayân* written by Imâm al-Tabarî (Muhammad ibn Jarir, 224-310 H/839-923 AD), many scholars attempted to describe such 'measured' beating as equal to beating with handkerchief and

wooden toothbrush. However, husbands tend to go too far. In practice, many husbands often take advantage of such permission to beat their wives to a worrying extent.

We certainly cannot blame the majority of Islamic scholars who have actually drawn a fair and strict limit; it is the perpetrators (husbands) themselves who should be blamed. However, when such permission is believed to have led to the justification of excessive violence, then the legitimacy of such permission should be revisited so that it can no longer be used to justify bad conduct and prohibited acts.

Shaykh Muhammad Tâhir ibn 'Ashûr (1296-1393 H/1879-1973 AD) has said that the authority given to husbands to 'beat their wives' was initially aimed at resolving the problems of married life. However, when the beating is no longer effective in improving the worsening relationship, such authority could be rescinded. The government itself could ban such beating and punish those who continue to beat their wives as a method to restore the normal relationship. In his opinion, there are many other methods that are more humane for that purpose than beating women, which is humiliating to them.[15]

Whatever the reason might be, beating is definitely not within the realm of humane

behavior. On many occasions, the Prophet himself was cynical toward those who were used to beating their wives. As explained in many hadîth, beating is not the only option. It is narrated by Bahz ibn Hakim ibn Mu'âwiyyah that his grandfather asked the Prophet (*saw*):

يَا رَسُوْلَ اللهِ، مَا حَقُّ نِسَائِنَا ، وَمَا نَأْتِى مِنْهَا وَمَا نَذَرَ؟ قَالَ: اِئْتِ
حَرْثَكَ أَنَّى شِئْتَ، وَأَطْعِمْهَا إِذَا طَعِمْتَ، وَاكْسُهَا إِذَا اكْتَسَيْتَ،
وَلاَ تُقَبِّحِ الْوَجْهَ وَلاَ تَضْرِبْ (رواه أبوداود)

> "O Apostle of Allah, how should we approach our wives and how should we leave them? He replied: Approach your tilth when or how you will, give her (your wife) food when you take food, clothe when you clothe yourself, do not revile her face, and do not beat her." (Abû Dâwud).[16]

Indeed, this should be seen as a genuine warning from the Prophet (*saw*) against beating women. The Prophet himself kept on embracing this principle throughout his married life. He never beat a woman or any of his wives. In fact, beating and molesting women were considered culturally acceptable at the time. Disagreements between the Prophet (*saw*) and his wives did occur frequently, as documented in many hadîth. On a number of occasions, the level of tension in his relationship with his wives was

very tense, but none ever led to beating.

It is narrated in a hadîth by Imam Muslim and Abû Dâwud that Aishah (*ra*) said:

مَا ضَرَبَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَيْأً قَطُّ بِيَدِهِ، وَلاَ امْرَأَةً وَلاَ خَادِمًا (رواه مسلم)

> "The Prophet (pbuh) never beat anybody with his hands, not a woman nor a servant" (Muslim).[17]

The truth is, even without following what had been modeled by the Prophet, human beings should be able to understand the logic that no one has the right to commit violence against women -- let alone if we seek to follow the character of the Prophet (*saw*). Violence is not in any way in accordance with the behavior, advice, and admonitions of the Prophet. Beating and other acts of violence against wives clearly contradict the concept of peaceful companionship (*mu'âsharah bi al-ma'rûf*) as ordered by the Qur'ân and are not in line with the call to treat women with respect. In fact, beating, torture and humiliation violate the testament of the Prophet, who asked his followers to treat women kindly. For whatever reason, beating is against the teaching, the hope and the everyday attitude of the Prophet

towards his wives.

It is worth pondering how the Prophet promoted such a revolutionary awareness of how to make women become more independent appreciated and respected as human beings. The Prophet chose to start with his own married life as an example for his followers. Despite having many options and enormous authority to educate his wives – either through the use of force or through negotiations – the Prophet chose the later to set an example for his companions and followers. He is indeed the best role model for his followers in proving that a married life can actually be built free of violence. He urged all men to allow women to choose what they think is best for them and to treat them wisely.

Adultery and Rape

It is difficult to find any discussion of rape in *fiqh* literature where it is dealt with as a separate crime with its own legal consequences. The criminal concept in *fiqh al-hudûd* that may be related to rape is a "crime against honor" or adultery. Rape, however, differs from adultery, as it involves coercion and violence.

Even in contemporary books on *fiqh* there is no discussion of the crime of rape, or of injury to the vagina or hymen. In contrast, there is

discussion of the crime of cutting off a penis, or of violence that leads to impotence. Neither the most comprehensive book, *al-Fiqh al-Islâmî wa Adillatuhû* by Dr. Wahbah al-Zuhaylî, nor the largest book to date on the criminal concepts of fiqh, *al-Tashrî' al-Jinâ'îy* by 'Abd al-Qâdir Awdah, gives a suitable or adequate discussion of this violent crime. Yet the crime of rape is a tremendous threat to the social life of the community, and especially to women.

The primary sources of *fiqh*, such as the Qur'ân and hadîth, are seen as providing little direct discussion of the crime of rape. There is, however, a verse that deals with prohibition on "coercive acts" in sexual matters and that provides protection to the victims of sexual violence:

وَلاَ تُكْرِهُوْا فَتَيَاتِكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْنَ تَحَصُّناً لِتَبْتَغُوْا عَرَضَ الْحَيَاةِ الدُّنْيَا ، وَمَنْ يُكْرِهْهُنَّ فَإِنَّ اللهَ مِنْ بَعْدِ إِكْرَاهِهِنَّ غَفُوْرٌ رَحِيْمٌ.

(النور، ٣٣)

Do not force your female slaves into prostitution, when they themselves wish to remain chaste, because you seek worldly gain. And whoever forces them, truly Allah is forgiving and kind (to those who have been coerced) after their forced helplessness. (al-Nûr; 24:33).

This verse indicates at least two things: first, an effort to forbid all forms of sexual coercion

and exploitation, and second, support and assistance for the victims of sexual exploitation so that they can regain a sense of security and self-confidence.

Islam prohibits adultery, in several verses of the Qur'ân and in various hadîth texts. Adultery is any act of sexual relations committed outside marriage. Adultery could serve as a preliminary basis for a formulation on the crime of rape, though rape cannot be considered the same as adultery. An act of rape contains further elements in addition to mere sexual relations: violent coercion and long-term trauma for the victim.

Rape was indeed punished in the days of the Prophet, and the rape victim was exonerated, with the expectation she would be forgiven by Allah The Almighty. At that time, the punishment for rape – which is committed with coercion and violence – was exactly the same as that for adultery, which does not involve coercion and violence. For this reason, a majority of scholars of hadîth and *fiqh* treat the act of rape just the same as the act of adultery. The only difference is that in adultery both parties involved must be punished, while in rape only the rapist is punished and the victim must be released. But the penalty for both crimes is the same.

عن وائل بن حجر قال: اُسْتُكْرِهَتْ اِمْرَأَةٌ عَلَى عَهْدِ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى الزِّنَا فَدَرَأَ عَنْهَا رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْحَدَّ وَأَقَامَهُ عَلَى الَّذِيْ أَصَابَهَا . وَقَالَ: وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَغَيْرِهِمْ أَنْ لَيْسَ عَلَى الْمُسْتَكْرَهَةِ الْحَدُّ (رواه الترمذي)

From Wâ'il ibn Hajar: "A woman was raped in the time of the Prophet; she was absolved from punishment for adultery, while the perpetrator was punished. Tirmidhî said: This was the practice of the scholars among the companions of the Prophet (*saw*) and others, that women who were raped were not subjected to punishment (had)". (Tirmidhî).[18]

In *fiqh*, the element of coercion into committing a crime is discussed as an aspect that may lessen the punishment or absolve the victim of coercion entirely from punishment. However, this element is seldom discussed as one that aggravates the legal penalties for the perpetrator of a crime, nor is it treated as a crime in itself, as in the case of rape.

It is inappropriate if the coercion and violence in cases of rape is only used as a consideration to absolve the victim from punishment. The victim did not commit any crime, so it is entirely inappropriate even to consider punishment. Quite the contrary, as a victim she is sure to

suffer long-term trauma and needs support and assistance to help her regain her self-confidence. In contrast, the rapist should be subject to the severest possible punishment, because he has not only committed the forbidden act of adultery but has also employed coercion and violence that have injured the victim, both physically and psychologically.

Help for Victims

The main problem in such cases is the misery that befalls the victims of and rape. They suffer not only at the time of the rape but also afterwards. And the worst suffering comes after the event; the victim is haunted by trauma, which can plague her for the rest of her life, both in social relations with others and in sexual relations with her spouse. Such conditions demand that all concerned provide immediate support and assistance to victims. Unfortunately, law enforcement officials often further humiliate the victims, for example, by asking insinuating or embarrassing questions which simply aggravates and prolongs the trauma.

A truly just *fiqh* must be oriented toward the victims, who in this case are women. First, the conceptual framework of *fiqh* should no

longer consider women's sexuality to be a cause of rape, whereby the victim is herself further victimized. Second, *fiqh* should generate an ethic of protection, service, and responsibility toward the victims. In these ways, the psychological trauma suffered by rape victims can at least be alleviated. In the teachings of Islam, assistance to victims is one path that brings us nearer to Allah. In one hadîth related by Muslim, the Prophet says:

وَاللّٰهُ فِيْ عَوْنِ الْعَبْدِ مَا كَانَ الْعَبْدُ فِيْ عَوْنِ أَخِيْهِ (رواه مسلم)

> Allah will support those who always provide support for their fellows. (Muslim).[19]

Chapter 5

Fitnah and Awrah

....وَنَبْلُوَ نَّكُمْ بِالشَّرِّ وَالْخَيْرِ فِتْنَةً وَإِلَيْنَا تُرْجَعُوْنَ.

(الأنبياء، ٣٥)

…. We will tempt you with evil and
good as a trial (*fitnah*) and to Us you shall return.
(*Al-Anbiyâ*, 21: 35).

Verse 35 of *Sûrah al-Anbiyâ* cited above places the word '*fitnah*' in balance as something normal, containing either evil or good. The word *fitnah* in Arabic means a trial, a test, anything astonishing or enticing. In several verses of the Qur'ân, the word '*fitnah*' occurs in reciprocal senses involving two opposing ideas or two related ideas.

For example, in the context of the relations between a Prophet and his people, the Qur'ân states that the people of Pharaoh experienced a *fitnah* from the Prophet Moses (*as*), who came to test and challenge the power of their kingdom – whether they would continue to submit to the power of a man, or submit to the power of Allah (*al-Dukhân*, 44: 17). Similarly, Jews such as Ka'ab ibn Asad, Ibn Salûba and Sha'th ibn 'Adiy were described as *fitnah* for the Prophet Muhammad (*saw*) because they tried to sway the Prophet from the truth of the Qur'ân (*al-Mâidah*, 5: 49). The faithful can be *fitnah* for the faithless (Cf. *al-Mumtahanah*, 60:5). Conversely, the unbelievers can also be *fitnah* for the believers (*al-Burûj*, 85: 10). In fact, all people are *fitnah* for all others, as they test one another's faith, resoluteness, and commitment to the values of the oneness of Allah (*tawhîd*), justice, and grace (Cf. *al-An'âm*, 6: 53 and *al-Furqân*, 25: 20).

The word *fitnah* is also found in several other verses and in the hadîth. Unfortunately, when women are labeled as *fitnah*, this becomes a permanent negative marker. With this label of `*fitnah*', a woman becomes something frightening that threatens the positive values in life. From this stigma, there then emerges various standards and initiatives that drive women into a space that is closed off, separate,

and unprotected.

In its reciprocal meaning, the word "*fitnah*" should just as well also be applied to men's bodies and their behavior toward women. If woman is *fitnah* for man, then at the same time man is also a test or *fitnah* for woman.

Unfortunately, what has developed in Muslim society is a discriminatory stigma of *fitnah* that is applied only to women, as if women are continually a source of tribulation for men.

If we examine the classical literature, the standard that restricts women's voices is an excessive interpretation of the meaning of "women's *'awrah*," a disproportionate fear based on the stereotypical view of women as *fitnah*. There are in fact no hadîth texts that clearly and unequivocally state that a woman's voice is part of her *'awrah*. Quite the contrary, on many occasions women came to the Prophet to ask questions, spoke with their male friends, traded in the market, took part in battle, and even taught and lectured in their homes or in the mosques.

In many ways, the stigma of "women's *'awrah*" prevents women from engaging in positive activities as recommended by the Qur'ân. In some Islamic countries, this stigma often humiliates women, obstructs them,

marginalizes them, and makes them highly vulnerable to all forms of violence.

In *fiqh*, the discussion on *‘awrah* is based on a discourse on the body in all its sensual dimensions and confirms that there are certain parts of the body that should not be displayed. People later used the term *‘awrah* to refer to things that are inappropriate and shameful. The meaning then shifted to something considered capable of arousing a person’s lust against that person’s will. Yet, actually what is shameful or arousing is entirely a matter of context. For this reason, *fiqh* differentiates between the bodily *‘awrah* of men and women, between servant women (*al-`amah*) and ordinary women (*al-hurr*), between indoors and outdoors, and between being in the presence of relatives and in that of others.

Kiyai Husein Muhammad in his book *Fiqh Perempuan* (Islamic Law Concerning Women), for example, notes that *fiqh* develops the concept of *‘awrah* mostly in the cultural dimension, which varies somewhat from time to time, from situation to situation, and from place to place. In other words, he tries to point out how difficult it is to establish an absolute law regarding *‘awrah*, when the object itself is so relative and contextual, constantly changing with time, place, and tradition.

Nevertheless, from those two key words about '*awrah*, "shameful" and "arousing," *fiqh* has built a discourse on the body and the norms related to it. When a society views women mostly as something material, rather than considering their intellectual and spiritual characteristics, there will be more standards and norms that regulate women's bodies than those that apply to men. This is what *fiqh* has done. The worth of a woman is the same from the standpoint of both *fiqh* and society. Thus, any movement to cover up, or to uncover parts of the body departs from the same basic assumption: that a woman's value lies in her body. Women are judged from the sensations their bodies create in the eyes of men. Thus, when men feel disturbed by their presence, they must cover up, for religion's sake and for the safety of men; or they must be uncovered, for the sake of freedom and for men's benefit.

If we actually read the verses of the Qur'ân and the hadîth texts, we will not find any specific limits on the '*awrah* of a woman's body. In fact, the Qur'ân and hadîth do not discuss '*awrah* in the context of the sensual aspects of the body. In the Qur'an, the word '*awrah* occurs four times, twice in the singular and twice in the plural. The singular form occurs in *Sûrah al-Ahzâb* 33: 13, while the plural is in *Sûrah al-Nûr*

24: 31 and 58.

In *Sûrah al-Ahzâb* 33: 13 it is interpreted by a majority of commentators as “a gap exposed to the enemy, a gap that enables another person to take advantage and attack.” This verse discusses certain people who are unwilling to leave their homes to go to war, because they feel it would be unsafe to leave their homes unguarded. They say that there is a gap (*‘awrah*) that would enable the enemy to attack the people who live there, so they feel it necessary to stay at home to mind the gap, rather than going to battle.[1] In *Sûrah al-Nûr* 24: 31 and 58, *‘awrah* is presented as a part of the human body that creates shame if it is seen, or is considered bad to expose.[2]

Regarding the *‘awrah* of women, there are several hadîth:

اَلْمَرْأَةُ عَوْرَةٌ فَإِذَا خَرَجَتْ مِنْ بَيْتِهَا اِسْتَشْرَفَهَا الشَّيْطَانُ (رواه الترمذي)

> Woman is *‘awrah*; when she leaves the house, devils will watch over her. (Tirmidhî).[3]

Tirmidhî accepts this hadîth as *hasan* (sound) although it comes through only one channel.[4] In a version transmitted by Ibn Hibbân, there is an addition:

... وَأَقْرَبُ مَا تَكُوْنُ الْمَرْأَةُ مِنَ اللهِ إِذَا كَانَتْ فِيْ بَيْتِهَا (رواه ابن حبان)

"...., and the place nearest Allah for a woman is the innermost part of the house." [5]

In another transmission, chosen by Nawâwî of Banten (d. 1314H/1897AD):

اَلْمَرْأَةُ عَوْرَةٌ فَاحْبِسُوْهُنَّ فِي الْبُيُوْتِ فَإِنَّ الْمَرْأَةَ إِذَا خَرَجَتْ الطَّرِيْقَ قَالَ لَهَا أَهْلُهَا: أَيْنَ تُرِيْدِيْنَ؟ قَالَتْ أَعُوْدُ مَرِيْضًا وَأُشَيِّعُ جَنَازَةً. فَلَا يَزَالُ بِهَا الشَّيْطَانُ حَتَّى تُخْرِجَ ذِرَاعَهَا، وَمَا الْتَمَسَتْ الْمَرْأَةُ وَجْهَ اللهِ بِمِثْلِ أَنْ تَقْعُدَ فِيْ بَيْتِهَا وَتَعْبُدَ رَبَّهَا وَتُطِيْعَ بَعْلَهَا

Woman is ‘*awrah*, so keep her hidden at home, for if she goes out on the street saying she wants to visit the sick, or wants to visit the graves of her departed relatives, devils will always be with her, and she will expose her arms. If she truly wishes to seek blessings for the sake of Allah, truly the best thing for her is to sit at home, worship Allah, and serve her husband. [6]

Unfortunately, Nawâwî fails to mention the source of the hadîth in this version.

Even if we are compelled to accept Tirmidhî's assessment of this hadîth on ‘*awrah*, it should be interpreted integrally together with several verses in the Qur'ân, including the ones mentioned above, and with other hadîth texts. If we look carefully, there have been developments, if not to say additions, in the textual versions of the hadîth. Where the Tirmidhî version stops at

the statement that woman is ‘*awrah* and watched over by devils, the Ibn Hibbân and Nawâwî versions go on to contain statements that tend to further domesticate women.

There are several possibilities to consider when we look at the changes in the text. First, perhaps the Prophet said the same thing more than once, at different times and places, with different and additional wording. Second, perhaps the Prophet actually said it only once, but those who heard it, i.e. the Companions, or the Followers of the Companions, or the writers of hadîth collections in the third and fourth hijri centuries, wrote it in different ways. The third possibility is falsification of hadîth, whether deliberate or not, directly or indirectly influenced by cultural conditions discriminatory toward women. In any case, hadîth scholars declare that only the Tirmidhî‘s version is acceptable, but in interpreting it they are also influenced by and use other, weaker versions, which directly are geared toward the domestication of women.

The hadîth from Tirmidhî actually does not speak about women’s bodies, but about woman as a whole – woman perceived as a social object. In those days, among the many strategies of Arab warfare for harming an enemy, one was to kidnap and enslave the enemy’s women. The tribe would also be mocked and ridiculed as

weaklings who could not protect their women. Theft of women was thus a form of psychological warfare. In this political system, women were considered an exposed gap that one tribe could use to cripple the society of an opposing tribe. It was in this context that the Prophet said that women are *‘awrah,* an exposure that the enemy could use to incapacitate the Muslims. This is why women needed special protection through the concept of *mahram* – to preserve the integrity and security of the community and protect it from possible destruction by outsiders.

The term “Women are *‘awrah*” was a reminder to protect women from becoming the target of psychological warfare by the enemy, who in the language of the hadîth are devils that are constantly watching and observing, ever ready to seize women as a way to weaken and destroy the community of Islam.

The statement that “women are *‘awrah*” cannot be taken to mean that all of a woman’s body which if exposed is disgraceful and shameful and as such must always be hidden from the view of others. Nor should it be interpreted as a standard that limits the movement of women. If it were true that women were *‘awrah* in this sense, then no woman in the time of the Prophet would ever have left the house, prayed in the mosque, gone shopping, worked in the fields,

or fought in battle alongside the Prophet. If it were true that a woman's voice is '*awrah*, we would not have heard of the daughter of the Prophet declaring political asylum before the congregation at the mosque, or of the wives of the Prophet who presented religious teachings. Nor would the Prophet have been willing to meet, listen to, and speak with the female companions in that time.

A majority of Islamic scholars (*fuqaha*) do not interpret "women are '*awrah*" as a regulation meaning that a woman's entire body is *awrah* that must be kept covered and never exposed. Furthermore, a majority of scholars allowed female servants, known at the time as *amah*, to bare the parts above the navel and below the knee. If it is true that a woman's body is `*awrah* in both senses (shameful and arousing), then all scholars should agree that a woman's entire body should be covered; no body part or any part thereof should be left exposed. But because this hadîth on women as '*awrah* was not concerned with their bodies, many scholar who set restrictions on clothing do not relate this issue to this hadîth on '*awrah*, but rely instead on other hadîth texts, such as the hadîth of Asmâ bint Abî Bakr (*ra*) and on the Qur'ân (*Sûrah al-Nûr*, verse 30).

The *fuqaha* have tried to present views

from which two things can be concluded. First, women are only allowed to show their faces and wrists, except in certain cases of need. Abû Hanîfah allows the arms and the calves to be exposed. Second, the main reason for covering women's bodies is to prevent disturbance (*fitnah*) and disaster from befalling women, while the main reasons for allowing certain body parts to be exposed are emergency or need.

The Qur'ân and hadîth do not clearly specify the parts of a person's body that must be covered. Further, must we simply follow the *`ulama's* understanding of these limits, or may we reformulate these limits in line with the logic of "disturbance" and "need" that was also developed by the *`ulama*? What we need to recognize is that women's *'awrah*, or anything written in the classical literature regarding their bodies, if intended as an effort to domesticate women, restrict their movement, or deny them their social roles and activity, is clearly a violation of human nature.

Such restrictions also contradict the hadîth texts describing the involvement of women at the time of the Prophet and the verses of the Qur'an stipulating the obligation for all people, men and women, to build a proper life (*al-Nahl*, (16): 97). We should consider the hadîth texts within the context of providing protection and security

for women and ask what are the best means available today. Today physical protection and security for women is the responsibility of the state, and every citizen is entitled to demand the fullest possible protection of the state. The way to protect “women’s *‘awrah*,” in the current social and political context, is to provide education and character building for women. The ignorance, backwardness, and poverty of women are *‘awrah* or exposure for the Islamic community. Only through such strengthening will the community become stronger, more dignified and respected.

The legal basis for covering the *‘awrah* usually refers to *Surah al-Nûr*: verses 30 and 31, and *Surah al-Ahzâb*: verses 33 and 59. These verses actually focus on more general moral advice, such as the orders to control one’s gaze, not to show off one’s jewelry, to veil the head and chest, and not to deliberately behave enticingly.

In fact, these verses are quite general, and for this reason the scholars often produce a wide range of opinions in interpreting them. To achieve a more complete understanding about the verses on *‘awrah,* we need to examine other legal bases, including how the concept of *‘awrah* was put in practice in the days of the Prophet.

Here is a hadîth transmitted by Abû Dâwud, Tirmidhî and Ibn Mâjah. According to ‘Aishah

(*ra*), the Prophet (*saw*) said:

لاَ يَقْبَلُ اللهُ صَلاَةَ حَائِضٍ اِلاَّ بِخِمَارٍ (رواه أبو داود)

> Allah does not accept women’s *salat* unless they cover their heads with cloth. (Abû Dâud and Tirmidhî).[7]

This hadîth is often used as a basis to declare that women’s heads are *‘awrah* that must be covered both during prayer and at other times as well. However, the *sanad* criticism yields a range of views. Tirmidhî and Ibn Hibbân feel that this hadîth is authentic, while al-Hâkim considers it to have some weaknesses.[8]

There are various opinions in interpreting this hadîth because its text is not very explicit. Most of the *fuqaha* hold the view that only women’s heads are considered *‘awrah*, but not their faces while others argue her face and entire body is *‘awrah* to be covered even outside prayer times. Another view considers the face as *‘awrah*, except for the eyes. The views of a majority of *`ulama* allow working women – there were female slaves *(al-amah)* at the time – to bare their heads, both outside and even during *salat* times.

A hadîth transmitted by Abû Dâwud, from ‘Aishah (*ra*):

أَنَّ أَسْمَاءَ بِنْتِ أَبِيْ بَكْرٍ دَخلَتْ علَى رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَعلَيْهَا ثِيَابٌ رِقَاقٌ، فَأَعْرَضَ عَنْهَا رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَقَالَ: يَا أَسْمَاءَ إِنَّ الْمَرْأَةَ إِذَا بَلَغَتْ الْمَحِيْضَ لَمْ تَصْلُحْ أَنْ يُرَى مِنْهَا إِلاَّ هَذَا وَهَذَا (رواه أبو داود)

> Once Asmâ bint Abî Bakr (*ra*) entered the house of the Prophet (*saw*). She was wearing a thin, transparent dress. The Prophet (*saw*) turned his face from her, saying ‘O Asmâ, once a women has reached puberty, she should no longer be seen, except for this and this,’ pointing to his face and his two hands. (Abû Dâwud).[9]

This hadîth is quite popular among the *fuqaha*, though its chain of transmission (*sanad*) is considered problematic. Abû Dâwud, its transmitter, says that this hadîth is weak because its *sanad* is broken (*maqtû’*), i.e., it does not connect directly to the original reporter.[10] Khâlid ibn Durayk, who received this hadîth from ‘Aishah (*ra*), is not well known by the hadîth experts. Furthermore, Durayk did not hear the hadîth directly from ‘Aishah, as they never met, and so his transmission of it is questionable. In another hadîth, transmitted by Abû Dâwud, from Umm Salamah (*ra*), the Prophet advised women, when they pray, to wear long garments that cover their legs to the soles of their feet.[11]

Did the Prophet ever say that women were

creatures that must be kept locked up inside the house? Many records show that in the days of the Prophet, women left their homes to migrate to Medina, go to war, pray and study in the mosque, work, or simply meet their needs.[12] Thus, in the time of the Prophet, women were not considered *‘awrah* that must stay cooped up in their homes. To reject this hadîth, we can use the legal principle which states that a provision that uses an unclear formula (ambiguous, open to multiple interpretations) cannot be used as a basis for law. The discussion of *‘awrah* in fiqh pays much attention to the social status of women. Free women (*al-hurrah*) and slave women (*al-amah*) have different limits to their *‘awrah*. As we have seen there are varying opinions about what constitutes *‘awrah* for free women. Likewise, there are many different opinions on the limits of slave women’s *‘awrah*.

According to al-Nawawî of Damascus, there are at least three views: the first, held by most of the students of Imâm al-Shâfi’î, is that a slave woman’s *‘awrah* is the same as a man’s (only those parts of the body between the navel and the knees). The second view, voiced by Imâm al-Tabarî, is that a slave woman’s *‘awrah* is the same as a free woman’s, except for the head. The third view is that her *‘awrah* is everything other than those parts of the body that need to be

uncovered when she is working (*khidmah*), i.e. everything but the entire head, feet, neck, and arms.[13]

Thus, we can conclude that nearly all *`ulama* give different interpretations for the hadîth texts related to *‘awrah*. These texts were interpreted in the context of the reality faced by these *`ulama*. In setting the limits of *‘awrah*, for both men and women, considerations are needed that accommodate and respond to the values current in the society, so that these limits can, to a certain degree, be accepted by the community. In this case, the concept "closing the temptation" (*khawf al-fitnah*), which has been developed by the *fuqaha*, can serve as one consideration, so that human bodies are not exploited and do not lead to undesirable harm. It is this consideration that guides the majority of *`ulama* in setting the limits of *‘awrah*. ❁

Chapter 6

Woman and Righteousness

مَنْ عَمِلَ صَالِحًا مِنْ ذَكَرٍ أَوْ أُنْثَى وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهُ حَيَاةً طَيْبَةً،
وَلَنَجْزِيَنَّهُمْ بِأَحْسَنِ مَا كَانُواْ يَعْمَلُونَ. (النحل، ٩٧)

Whoever works righteousness, man or woman,
and has Faith, verily, to him will We give a new Life,
a life that is good and pure, and We will bestow on
such their reward according to the best of
their actions. (al-Nahl, 16: 97).

The role of women in many traditional cultures is often associated with carrying out domestic and household tasks – serving their husbands and children – as well as with the extension of this role to community services such as taking care of parents, looking

after the sick, and assisting the community members. The image of women is enhanced if they perform well in these tasks. However, despite their enormous contributions to their community, they barely gain the same recognition as they do as wives and housewives. This perception is deeply rooted in the social structure of any traditional society. For instance, the term *kanca wingking* (companion behind) in Javanese culture illustrates the place of wives behind their husbands. Her role centered on the kitchen (cooking), the well (laundry), and the mattress (fulfilling her sexual duties). Often, it is associated with another set of characteristics ascribed to women such as *macak* (putting on makeup to please the husband), *manak* (giving birth) or *masak* (cooking and preparing meals). It is not surprising that the social status of women compared to their husbands was illustrated sarcastically in the saying *swarga nunut nraka katut* (following the husband to heaven or dragged by the husband to hell).

Women's virtue was judged entirely by how much pleasure they brought to their husbands' lives. There is a popular saying among Muslim families that a woman has a dual obligation, to obey the king and to obey her husband. Just as a soldier belongs to the king, a woman belongs to her husband. She must surrender her entire life

to her husband's desires as she would surrender her life to the will of God.

Similar ideas can also be found in Islamic literature that later influenced Muslims' perceptions of the ideal woman. For example, it was mentioned in the book *Sharh 'Uqûd al-Lujjayn*, by Nawâwî of Banten (d. 1314H/1897M), that a righteous woman (*mar'ah sâlihah*) is the woman who obeys her husband, does her household duties, protects her own and her husband's dignity, keeps her husband's secrets, and looks after and preserves his wealth. A wife should be shy in the presence of her husband and should never challenge him. She is always expected to bow her head and control her eye contact in front of her husband. She is also required to be silent when her husband is speaking, stand up to show respect when her husband approaches, and to go and do things to please and satisfy her husband.

The husband's position is so superior, according to Nawawî of Banten (d. 1314H/1897AD), that without his permission the wife is forbidden from performing optional worship, or *sunnah*. Likewise, she should not give alms nor is she allowed to spend her own wealth without his permission. In the case of disobedience, she bears the sin while the husband is rewarded.[1]

This notion of the ideal woman is legitimated in the following hadîth:

أَلَا أُخْبِرُكَ بِخَيْرِ مَا يَكْنِزُ الْمَرْءُ؟ الْمَرْأَةُ الصَّالِحَةُ: إِذَا نَظَرَ إِلَيْهَا سَرَّتْهُ، وَإِذَا أَمَرَهَا أَطَاعَتْهُ، وَإِذَا غَابَ عَنْهَا حَفِظَتْهُ. (رواه أبو داوود)

Shall I tell you what the best thing to treasure is? A righteous woman: when he looks at her she pleases him, when he commands her she obeys him, and when he is away she preserves herself for him. (Abû Dâwud).[2]

Interestingly, in some other hadîth books, the term 'righteous woman' is interpreted only as an ultimate blessing in life with no specific description of the righteous woman's duties. For example, let us refer to the following hadîth narrated by Nasâ'î, Ibn Mâjah and Ahmad:

عَنْ عَبْدِ اللهِ بْنِ عَمْرِو بْنِ الْعَاصِ رَضِيَ اللهُ عَنْهُ، أَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِنَّ الدُّنْيَا كُلَّهَا مَتَاعٌ وَخَيْرُ مَتَاعِهَا الْمَرْأَةُ الصَّالِحَةُ. (رواه النسائي، ابن ماجه، وأحمد)

From Abdullâh ibn 'Amr ibn al-'Âsh (*ra*), the Messenger of Allah (*saw*) said: "The whole world is pleasure, and the best pleasure of the world is the righteous woman. (Nasa'î, Ibn Majah and Ahmad).[3]

Meaning of the *Mar'ah Sâlihah*

To interpret the term "righteous woman" solely by referring to the hadîth reported by Abû Dâwud is insufficient because it was reported in the context of the Prophet's companions who were reluctant to obey the order of the Qur'ân for not hoarding gold and silver. Some of his companions regarded gold and silver as so precious that they were reluctant to give alms. The Prophet (*saw*) then said to his companions that the most precious thing they could have was a family, specifically, a partner in life with whom a husband would share all his problems, who would stay with him in happiness or sorrow, and who would please him and preserve herself for him and for their common interest. This is called a righteous wife. This elaboration can be found in the book *'Awn al-Ma'bûd* by Muhammad al-Azhîm Abâdî in commenting on the text of the above hadîth.[4]

عن ابن عباس رضي الله عنهما ، قال: لَمَّا نَزَلَ هَذِهِ ٱلآيَةُ (وَالَّذِيْنَ
يَكْنِزُوْنَ الذَّهَبَ وَالْفِضَّةَ) قَالَ: كَبُرَ ذَلِكَ عَلَى الْمُسْلِمِيْنَ، فَقَالَ عُمَرُ
رَضِيَ اللهُ عَنْهُ: أَنَا أُفَرِّجُ عَنْكُمْ، فَانْطَلَقَ فَقَالَ: يَا نَبِيَّ اللهِ إِنَّهُ كَبُرَ
عَلَى أَصْحَابِكَ هَذِهِ ٱلآيَةُ، فَقَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ:
إِنَّ اللهَ لَمْ يَفْرِضْ الزَّكَاةَ إِلاَّ لِيُطَيِّبَ مَا بَقِيَ فِيْ أَمْوَالِكُمْ وَإِنَّمَا فَرَضَ
الْمَوَارِيْثَ لِتَكُوْنَ لِمَنْ بَعْدَكُمْ، أَلَا أُخْبِرُكَ بِخَيْرِمَا يَكْنِزُ الْمَرْءُ ؟ الْمَرْأَةُ

الصَّالِحَةُ: إِذَا نَظَرَ إِلَيْهَا سَرَّتْهُ، وَإِذَا أَمَرَهَا أَطَاعَتْهُ، وَإِذَا غَابَ عَنْهَا حَفِظَتْهُ. (رواه أبو داود)

Ibn 'Abbâs (*ra*) said: when this verse was delivered (And who are hoarding gold and silver), he said: it was a big matter for Muslims, Umar (*ra*) said: I will relieve you all. He went to the Messenger of Allah (*saw*) saying: O Prophet of Allah, this verse is difficult for your companions. The Messenger of Allah said: (This verse explains about the obligation of *Zakat*) Allah did not impose Zakat except to cleanse what remains of your wealth and did not impose inheritance except for the sake of those who come after you. Shall I tell you what the best thing to treasure is? A righteous woman: when he looks at her she pleases him, when he commands her she obeys him, and when he is away she preserves herself for him. (Abû Dâwud).[5]

How should we define a righteous woman? If a righteous woman is to be defined as an ideal woman, this should not limit her space to only performing domestic tasks, as interpreted by several *fiqh* scholars based on the above hadîth. The association of righteous woman with ideal woman should include other elements with which Allah has provided her. A righteous woman should be given the same credits and expectations as given to the righteous man. We of course agree that with the presence of righteous

people among us, we hope that our lives will be peaceful, secure and full of blessings, both in this life and in the hereafter.

However, in reality the meaning of righteousness has been obscured or reduced. This occurs when a particular concept is only partially understood and when the understanding of such a concept is limited to the time when the Islamic society had just begun to understand which duties or tasks should be performed by a man or a woman. From the study of development of human civilization, we know that when world communities were approaching the pre-industrial era, the social roles of men and women were relatively static. That is, men were proclaimed the breadwinners, engaged in politics, and had a productive role, whereas women were doomed to only performing and securing domestic tasks and functioning as the family care-taker and reproductive facility. In fact, there is no mention of such a division by the Prophet, nor is there any sacred concern to support it. This was a man-made assumption which was later endorsed by certain religious perspectives.

The reduction of meaning may well occur when the meaning of *sâlih* or *sâlihah* (righteous man/woman) is limited to formal worship practices. For instance, a "righteous boy" is

only associated with his ability to pray for his parents, consistently perform daily prayer, fast and perform *al-hajj* (pilgrimage). Likewise, a righteous woman is associated with her determination to practice her religion, as for men, but she is also expected to show her obedience and dedication to please her husband.

Surely, this kind of interpretation is not wrong. However, the vagueness arises when it is limited to such an exclusive interpretation. It should not be the only interpretation, let alone be regarded as an absolute one. The interpretation of righteousness in a man, a woman or a boy should in fact be based on all religious texts which comprehensively talk about righteousness.

The word *sâlih* literally means the opposite of *fâsid* (corrupt). It is used to refer to something which is not corrupt, e.g. healthy, strong, firm, proper, suitable, right, useful, peaceful and good.[6] Acording to the Qur'ân and hadîth, good deeds (*'amal sâlih*) are open to a wider interpretation. Such righteousness is closely related to behavior that reflects the relationship between humans and Allah and among humans themselves, their close relatives and the community. In *Sûrah al-Nâs*, for instance, one of the criteria of righteousness is one's commitment to the commands of Allah even

when one is alone.

Every good deed prescribed by the Qur'ân and hadîth is one of the signs of righteousness, whether in man or woman. This includes praying, giving alms, making a living, strengthening one's faith by traveling (moving), seeking knowledge, and creating a prosperous life on earth. By referring to both the literal meaning of righteousness and the meaning given by the Qur'ân and the hadîth, it becomes clear that a righteous woman is one who is good, decent and competent either in her relationship with Allah or with other human beings. The righteous woman is the woman who has all aspects of decency, such as intellectual competency, morality and personality, or what is called *al-dîn* (religion).

Thus, the partial meaning of "righteous woman" which refers only to the wife's devotion and obedience to the husband should not be preserved. We should no longer limit the criteria of a righteous woman to include only certain aspects of how she serves her husband. Such an interpretation can only lead to her being judged as good or bad merely based on her relation to her husband. This would lead to excluding her from being a normal Muslim or a social individual like others.

When a righteous woman is required to

please her husband, the righteous husband is also expected to do the same. As a wife, she should not be unilaterally required to please her husband as he wishes. The same demand should apply equally to the husband. Therefore, what is really needed here is togetherness and fairness in family life. This is in accordance with several basic principles outlined by the Qur'an, specifically the principle of good companionship between husband and wife: fulfilling each other's needs, cooperation, and mutual understanding.

As a human being, a woman's social identity cannot be confined to her status as a wife. A woman, whether a daughter, a mother or a wife, still maintains her relationships with her own family, neighbors, and the wider community. Women and men are both responsible for the path on which their community is directed, good or bad, as Allah explicitly states in the Qur'ân:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللّٰهَ وَرَسُولَهُ أُولَٰئِكَ سَيَرْحَمُهُمُ اللّٰهُ إِنَّ اللّٰهَ عَزِيزٌ حَكِيمٌ. (التوبة، ٧١)

The Believers, men and women, are protectors, one of another: they enjoin what is just and forbid what is evil: they observe regular

prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His Mercy: for Allah is Exhalted in power Wise. (*Al-Tawbah* 9: 71).

Facing Poverty

In Islam, poverty is not regarded as something that disgraces the dignity of humankind. One's decency is not determined by one's wealth, but by the degree of his or her godfearingness, whether in wealth or in poverty. *"Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you"*. (QS. al-Hujurât, [49]: 13). Poverty is, indeed, not caused by the lack of natural resources, but mainly by its unjust distribution. Allah has showered the earth with all kinds of blessings and resources. In the end, it is humans who arbitrarily exploit them and create social imbalances that lead to the existence of poverty.

In the early days of Islam, many scholars, the companions of the Prophet (*sahâbah)*, successors of the companions (*tâbi'în*), and even the Prophet Muhammad himself lived in poverty. It was not rare to hear that the Prophet (*saw*) and his family members did not cook for days because they only had dates and water to consume. 'Aishah (*ra*), the wife of the Prophet narrated that when the Prophet passed away,

there was only a small amount of wheat that was not enough even to feed one person. The Prophet's armor was still being pawned to his neighbor because he owed them wheat to feed his family.[7]

However, the poverty that was suffered by the Prophet, his companions and certain scholars, was not caused by any improper distribution system. In fact, it was because they were more concerned with other people's conditions. Such poverty did not cause them to lose their patience and faith, but quite the opposite; they endured it very consciously, patiently and faithfully. They regarded poverty as a training arena to excite the sense of solidarity towards others inside themselves, encourage the willingness to overcome poverty, and position themselves closer to Allah The Almighty.

Whenever simplicity or poverty occurs as a result of a conscious choice, it certainly cannot be regarded as a humiliation. It is different however, when the poverty is triggered by certain conditions, such as structural gaps created by unfair systems which one has no control over. It is this kind of poverty that often causes someone to be looked down on and humiliated. It is also the poverty (*faqr*), in other meaning, that was often mentioned in every prayer of the Prophet.

اَللَّهُمَّ إِنِّيْ أَعُوْذُ بِكَ مِنَ الْكُفْرِ وَالْفَقْرِ وَعَذَابَ الْقَبْرِ (رواه الترمذي والنسائي)

"Allah! I seek refuge in You from unbelief and poverty, and from the punishment of the grave." (Tirmidhî and Nasâ'î).[8]

The Prophet was well aware of the fact that such poverty would likely drag his followers into the kind of life in which they are so powerless that they could end up in the wrong path. This poverty often stems from imbalances in social structures that keep the poor away from any decision and policy making as well as away from any resources. This is the kind of poverty that was opposed by the Prophet (*saw*) Such poverty, in the Prophet's term was regarded as something that is really close to infidelity.

In reality, the kind of poverty that is suffered by many today is not the poverty that occurs as a result of a conscious choice, but is instead due to unjust distribution systems. Such poverty may occur as a result of social imbalances and government's policies that are never in favor of the poor in the first place.

Furthermore, in the social relationship between the rich and the poor, women from the poor are the ones who suffer the most, due to the pre-existing imbalance within their own

social structure. When both men and women are poor, men would still have more power over women and have more access to many aspects because of their roles as the head of the family or as being socially more important than women.

Still, this reality is yet to be taken into account by many governments in their efforts to produce fair poverty reduction policies or provide aid. The assumptions they use are often gender-biased, as if any assistance given to the husbands/men will automatically reach the wives and their families. In fact, as the heads of the family, men too have their own needs, which might not be the same as those of their wives and children.

In Islam, – as narrated in several texts of hadîth, the obligation to work and earn an income applies to both men and women. The Prophet also encouraged all his followers to work as much and as good as they can.

عن أبي هريرة رضي الله عنه قال: قال رسول الله صلى الله عليه وسلم: "لَأَنْ يَحْتَطِبَ أَحَدَكُمْ حَزْمَةً عَلَى ظَهْرِهِ خَيْرٌ مِنْ أَنْ يَسْأَلُ أَحَدًا فَيُعْطِيْهِ أَوْ يَمْنَعُهُ" . (رواه البخاري)

Narrated by Abû Hurayrah (ra): Allah's Apostle said, "One would rather cut and carry a bundle of wood on his back than ask somebody who may or may not live him." (Bukhârî).[9]

In several narrations of the hadîth, it is depicted how women in the Prophet's era were also actively engaged in economic activities. Their involvement in these activities was driven by the need to meet their families' needs, give alms, and help fund the struggle of Islam. The areas these women were involved in also varied: looking after the garden, taking care of the livestock, producing household goods, and working in the medical sector.[10]

Women in the Prophet's time also had freedom to manage their own budget such as their own allowance, the family spending or donations. At the time, it was evident that many women gave alms from their own earnings or even support their husbands financially.

عن فاطمة بنت قيس رضي الله عنها، قالت: وَأُمُّ شُرَيْكٍ اِمْرَأَةٌ غَنِيَّةٌ مِنَ الْأَنْصَارِ عَظِيْمَةُ النَّفَقَةِ فِيْ سَبِيْلِ اللهِ يَنْزِلُ عَلَيْهَا الضِيْفَانُ

(رواه مسلم)

> Narrated by Fatimah bt. Qays (ra): "Umm Shurayk was a rich lady from amongst the Ansâr. She spent generously for the cause of Allah and entertained guests very hospitably." (Muslim).[11]

Apart from giving women the freedom to work so that they could be more independent, the collection of alms was initially aimed at

reducing women's poverty, especially widows. As far as the theology is concerned, almsgiving is regarded as a financial institution that could be used to solve various socioeconomic problems, especially in relation to the imbalances that occur in the sector of economic management. Almsgiving acts as a media for economic justice and economic democracy which could deliver economic resources to whom they belong. The funding which is raised through almsgiving would subsequently be able to stimulate the creativity amongst the alms receivers to earn or increase their income.

At the same time, almsgiving could also serve as a medium to support the community which in turn would effectively raise the dignity of the weak groups (*al-mustad'afîn*). Through this, the weaker groups would be allowed to have the same capability, potential and opportunity as those of the stronger groups in managing natural resources. As mentioned in the Sûrah al-Hashr, the distribution of wealth in Islam is primarily aimed at circulating the wealth from one person to another so that it is not possessed only by certain wealthy groups. (*Surah al-Hashr*, 59: 7).

According to Imâm Mâlik b. Anas (d. 179H/795AD), among the groups of alms receivers, the poorest of them and those

who need the most should be given a bigger proportion.[12] The same view was expressed by Ibn al-Athîr (d. 606 H/1210 AD) when defining the groups that deserve to receive alms. He maintained that zakât should be distributed to the poorest and the closest of one's relatives.[13]

In our current social structure, the group that is regarded as the most powerless, marginalized and vulnerable to all forms of violence is women. The problem arises when almsgiving, as part of the religious rituals, is difficult to modify to suit the development and the spirit of almsgiving itself. As an illustration, if we refer to the statistical figures of world poverty, it is clear that the group most entitled to receive alms is women, because they are themselves the face of world poverty.

Women are not doomed to be poor. As is the case with men, the poverty suffered by women originates from an imbalance in the social structure which denies them access to the sources of income. Occasionally, when they are given opportunities to earn an income, such as by working abroad, in general labor, or in the informal sector, they still are not paid accordingly. Many female foreign workers who regularly send money to their families back home cannot enjoy it on their return simply because their husbands and other family members are

considered the legitimate owners of the money.

Such unbalanced power has resulted in women being left behind almost in all aspects: economic, social, political and educational. Women often do not have the same bargaining power as men when entering the workforce. Religious views also seem to endorse and legitimize this reality, which would consequently broaden the gap, such as a broad religious rule which is exploited to forbid women from working, or even simply being, outside their homes. The following hadîth for example, has often been regarded as a basis for forbidding women from any outdoor activity.

Forbidding them from such activities without guaranteeing them financial support would create even greater gaps. In such a situation, the position of women would never be equal to that of men, and consequently they would be vulnerable to all forms of violence. In societies where the distribution system still does not accommodate the interests of women, it is rare to see the distribution of community funding that is organized by governments or communities, including alms, reaching women directly.

It is even more difficult for women to expect the distribution of alms which can be used by them to support programs that involve women

such as education, research, book authoring, or even the most important programs such as providing support for women who are the victims of violence. Because of such social structures that often do not accommodate the interests of women, in his last words before his death the Prophet said “I commend you to be kind to women who have been the victims of your violence. You are all obliged to treat them kindly”. (Turmudhî).[14]

Women should be given their own proportion of alms as the implementation of the Prophet’s testament. Without violating the Islamic law (fiqh), Muslim scholars should be more creative in finding a way to allocate a proportion of alms to women in the categories of *riqâb* and *fî sabîlillâh*. *Riqâb* was initially used to refer to slaves and those who are owned by their masters. Basically, they are a group of people who have the least access to the sources of economy and power. They are those who are denied their basic rights as human beings. Given this meaning, the category of *riqâb* should also include all poor women on earth, since they have lost all their basic rights as human beings. Therefore, they should be allowed to constitute one group of alms receivers. Likewise, they should also be included in the category of *fî sabîlillâh*, which has been described by a number

of scholars in the field of fiqh as public interest. If these meanings are true, then empowering women should be the main priority for poverty reduction agenda through alms distributions. Empowering women will in turn bring about an enormous advancement in the restoration of the very basic human relationship of men and women.

Of this alms-based funding, there are two agendas that could be carried out with regard to the women's empowerment issue. The first and the most urgent one is that a proportion of alms could be used for assisting the victims of violence among women and for the improvement of reproductive health services. The second agenda, which is also a long term one, is to reinforce women's rights for social transformation.

In conclusion, it is fair to say that poverty is not the cause of disgrace, as has been stressed in a number of hadîth. However, in reality, poverty has encouraged oppression and discrimination. Since Islam is a religion that bans all forms of discrimination and violence, overcoming poverty should be at the center of Islamic teaching and practices today. If we believe that Islam is always deeply concerned with the poor and the vulnerable, then women ought to be its main priority. It is in this aspect that the religion

could play a crucial role by transforming its teachings into real concepts in order to maintain its relevancy in combating injustices including poverty. One clear example of such injustices is the poverty of woman. ❁

Chapter 7

Woman and Education

يَرْفَعِ اللّٰهُ الَّذِيْنَ اٰمَنُوْا مِنْكُمْ وَالَّذِيْنَ أُوْتُوا الْعِلْمِ دَرَجَاتٍ،

وَاللّٰهُ بِمَا تَعْمَلُوْنَ خَبِيْرَ (المجادلة، ١١)

Allah will raise up, to (suitable) ranks (and degrees), those of you who believe and who have been granted Knowledge. And Allah is well-acquainted with all ye do. (al-Mujâdilah, 58: 11).

As a result of the determination of the Prophet's mission to provide justice for all, many Muslims during his time who were initially regarded as second class citizens – such as slaves and women – eventually gained power and the capacity to be equal to the other believers who had held a higher social status

in the community long before they embraced Islam. Since education was treated as a source of strength of the Islamic society at the time, a number of women were also actively involved. This is shown in the text of the hadîth mentioned above; a group of women came to see the Prophet and requested that he organize a special teaching session for them, apart from other public forums that were attended by Muslims in general such as regular Friday prayers and other meetings.

The house of the Prophet (*saw*) was always open to those who wanted to seek advice, to debate, and to discuss the problems facing them. The matters discussed therefore varied and were often broadly moral and ethical. The issues related to women's activities on a daily basis, from waking up in the morning until they retire in the evening, also varied considerably. In order to be sure of the guidance received from Allah in relation to their daily matters, the women were not at all reluctant to come forward and seek advice from the Prophet. The women from the Ansar (the Medinese) were amongst the most involved in this quest, to the extent that 'Âishah (*ra*) came to praise them for their determination in seeking and broadening the knowledge they were striving for.

عن عائشة رضي الله عنها، قالت: كُنَّ نِسَاءُ الْمُؤْمِنَاتِ يَشْهَدْنَ مَعَ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ صَلاَةَ الْفَجْرِ.(رواه البخاري)

'Âishah (*ra*) said: "Those believing women used to attend the *Fajr* prayer with the Prophet" (Bukhâri).[1]

Attending the congregational prayers (*jamâ'ah*) with the Prophet in the mosque was of much significance; not only did it fulfill the spiritual desire of many Muslims but it also fulfilled their thirst for information and political decisions. This is because mosques were the only public places where knowledge was disseminated and political decisions made. Therefore, the presence of women with the Prophet in the mosque at the time was regarded as an attempt to satisfy their needs for education and information. The Prophet personally asked his companions not to restrain women from going to the mosque. This was simply aimed at giving women the same equal opportunity that was given to men to benefit from activities carried out in the mosque.

In a hadîth reported by Bukhârî, Muslim and Tirmidhî, the Prophet is reported to have said:

إِذَا اسْتَأْذَنَ نِسَائُكُمْ بِاللَّيْلِ إِلَى الْمَسْجِدِ فَائْذَنُوْا لَهُنَّ (رواه البخاري ومسلم)

If your wife asks for permission to go to the mosque in the evening, she should not be refused this permission. (Bukhârî and Muslim).[2]

Another hadîth in the same three collections is even more emphatic:

لاَ تَمْنَعُوْا إِمَاءَ اللهِ مَسَاجِدَ اللهِ (رواه البخاري ومسلم)

Don't obstruct or hinder a woman who wants to go to God's mosques. (Bukhârî and Muslim).[3]

عن أم عطية رضي الله عنها قالت: "... كُنَّا نُؤْمَرُ أَنْ نَخْرُجَ يَوْمَ الْعِيْدِ، حَتَّى تَخْرُجَ الْبِكْرُ مِنْ خِدْرِهَا، حَتَّى نُخْرِجَ الْحُيَّضَ فَيَكُنَّ خَلْفَ النَّاسِ فَيُكَبِّرْنَ بِتَكْبِيْرِهِمْ وَيَدْعُوْنَ بِدُعَائِهِمْ، يَرْجُوْنَ بَرَكَةَ ذَلِكَ الْيَوْمِ وَطُهْرَتَهُ، وَفِيْ رِوَايَةٍ: لِيَشْهَدْنَ الْخَيْرَ، وَدَعْوَةَ الْمُؤْمِنِيْنَ." (رواه البخاري)

Umm 'Atiyyah (*ra*) said: "We (women) were commanded to go forth on the day of *'Īd*, in so far as to make a virgin leave her curtain and to require (even) menstruating women to turn out; and they (the women) were behind the men, and they uttered the *takbīr*, along with their *takbīr*, and they made their supplications along with their supplications, hoping for the blessings of that day and its purification. In another narration, it said: "They (women) come out to witness the goodness (of the day) and the prayers (delivered) by the believers (Bukhârî).[4]

If the Prophet felt that his sermon could not be heard clearly by the women on the back rows, the Prophet willingly approached the rows and repeated his sermon to them.

عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: قَامَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَوْمَ الْفِطْرِ فَصَلَّى فَبَدَأَ بِالصَّلَاةِ ثُمَّ خَطَبَ فَلَمَّا فَرَغَ نَزَلَ فَأَتَى النِّسَاءَ فَذَكَّرَهُنَّ وَهُوَ يَتَوَكَّأُ عَلَى يَدِ بِلَالٍ وَبِلَالٌ بَاسِطٌ ثَوْبَهُ يُلْقِي فِيهِ النِّسَاءُ الصَّدَقَةَ. وَفِي رِوَايَةٍ عَنْ ابْنِ عَبَّاسٍ فَظَنَّ أَنَّهُ لَمْ يُسْمِعْ النِّسَاءَ فَوَعَظَهُنَّ وَأَمَرَهُنَّ بِالصَّدَقَةِ . وَقَالَ ابْنُ جُرَيْجٍ لِعَطَاءٍ: أَتَرَى حَقًّا عَلَى الْإِمَامِ ذَلِكَ يُذَكِّرُهُنَّ؟ قَالَ: إِنَّهُ لَحَقٌّ عَلَيْهِمْ وَمَا لَهُمْ لَا يَفْعَلُونَهُ. (رواه البخاري ومسلم)

Ibn Jurayj, ‘Atâ, Jâbir ibn ‘Abdillâh (*ra*) narrated that the “The Prophet went out and led the prayer on the Day of *‘Îd al-Fitr*. He offered the prayer before delivering the sermon. After the Prophet finished his sermon, he approached the women and preached to them while leaning on Bilal’s arm. Bilal was spreading his garment to collect the *zakah* from the women.” In another narration from Ibn `Abbâs (*ra*): “The Prophet thought that (the sermon on that day) could not be heard by the women in the back row, therefore the Prophet (went to see them) and repeated his sermon and asked the women to give *zakah*.” Ibn Juraij then asked ‘Atâ, “Do you think it is incumbent upon an Imâm to go to the women and preach to them?” ‘Atâ said, “No doubt it is incumbent on Imâms to do so,

and why should they not do so?" (Bukhârî and Muslim).[5]

Abî Sa'îd al-Khudri narrated the following hadîth:

قَالَ النِّسَاءُ لِلنَّبِيِّ صَلى اللهُ عَلَيْهِ وَسَلَّمَ غَلَبَنَا عَلَيْكَ الرِّجَالُ فَاجْعَلْ لَنَا يَوْمًا مِنْ نَفْسِكَ. فَوَعَدَهُنَّ يَوْمًا لَقِيَهُنَّ فِيْهِ. فَوَعَظَهُنَّ وَأَمَرَهُنَّ (رواه البخاري)

A group of women approached the Prophet and said to him: "Those who are males seem to have already moved beyond us females; can you possibly devote some of your time to us, females? The Prophet was prepared to devote time to teach, caution and give advice to the women (Bukhâri).[6]

If the women were not satisfied with what they heard in the public sermon, they approached the Prophet as was evident in the following hadîth. She said:

يَا رَسُوْلَ اللهِ، ذَهَبَ الرِّجَالُ بِحَدِيْثِكَ فَاجْعَلْ لَنَا مِنْ نَفْسِكَ يَوْمًا نَأْتِيْ فِيْهِ، تُعَلِّمُنَا مِمَّا عَلَّمَكَ اللهُ فَقَالَ: اِجْتَمِعْنَ فِى يَوْمِ كَذَا وَكَذَا فِى مَكَانِ كَذَا وَكَذَا فَاجْتَمَعْنَ، فَأَتَاهُنَّ رَسُوْلُ اللهِ صَلَى اللهُ عَلَيْهِ وَسَلَّمَ فَعَلَّمَهُنَّ مِمَّا عَلَّمَهُ اللهُ (رواه البخاري)

O Prophet, the men have received the teachings from you, can you allocate time to teach us the females what it is you hear and receive from

God? The Prophet responded: "Yes, gather on this day and that day, at this place." Following this the women gathered at the place arranged by the Prophet and the Prophet taught them what he had received from God. (Bukhârî).[7]

It is this kind of creativity that was praised by 'Âishah (*ra*).

نِعْمَ النِّسَاءُ نِسَاءُ الْأَنْصَارِ، لَمْ يَكُنْ يَمْنَعُهُنَّ الْحَيَاءُ أَنْ يَتَفَقَّهْنَ فِى الدِّيْنِ (رواه البخاري)

The greatest women are those from the Ansar, those that are never ashamed to always be studying about religion. (Bukhârî).[8]

A commitment to the pursuit of knowledge was evident since the Prophet Muhammad (*saw*) received his first revelation, *"iqra,"* which means "read." Many Qur'anic verses that deal with life, the universe and the world of nature, such as the earth, sky, land, and water, often conclude by an invitation to humans to ponder and reflect. If one assumes, and as Muslims, we do, that the Qur'ân is meant to be read by all believers then the obligation to seek learning clearly applies equally to women.

The Prophet himself repeatedly asked all the believers to be committed to their learning and teaching. The hadîth that "the pursuit of

knowledge is obligatory for every Muslim, male and female" is very well-known among Muslims, and, sadly, is one that far too many Muslims only pay lip service to.

A number of verses of the Qur'ân and hadîth suggest that women have the same rights to learning as men. This means that there is no valid reason to play down women's right to education. Many hadîth scholars note that women were the first to be actively involved in teaching and narrating the hadîth. Almost a thousand women became teachers or, more precisely, narrators, of hadîth. These include 'Âishah and Asmâ bint Abî Bakr (*ra*), Hafsah bint Umar ibn al-Khattâb (*ra*), Khansâ bint Khidâm (*ra*), Umm Salamah (*ra*), Umm Ayyûb (*ra*), Umm Habîbah (*ra*), and many others.

With their existing knowledge, several women were capable of criticizing a number of the Prophet's companions or expressing their opinions. But such endeavor was initially not possible in the Arab society, and receiving criticism and opinions from women was regarded as taboo. 'Umar ibn Khattâb (*ra*) said:

وَاللهِ، إِنْ كُنَّا فِى الْجَاهِلِيَّةِ مَا نَعُدُّ النِّسَاءَ أَمْرًا، حَتَّى أَنْزَلَ اللهُ فِيْهِنَّ مَا أَنْزَلَ، وَقَسَمَ لَهُنَّ مَا قَسَمَ، قَالَ: فَبَيْنَا أَنَا فِى أَمْرٍ أَتَأَمَّرُهُ، إِذْ قَالَتْ اِمْرَأَتِى: لَوْصَنَعْتَ كَذَا وَكَذَا ؟ فَقُلْتُ لَهَا: مَالَكِ وَلِمَا هَاهُنَا؟ فَبِمَ تَكَلُّفُكِ فِى

أَمْرٍ أُرِيْدُهُ؟ فَقَالَتْ لِي: عَجَبًا لَكَ يَاابْنَ الْخَطَّابِ! مَاتُرِيْدُ أَنْ تُرَاجَعَ أَنْتَ، وَإِنَّ ابْنَتَكَ لَتُرَاجِعُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، حَتَّى يَظَلَّ يَوْمَهُ غَضْبَانَ؟ فَقَامَ عُمَرُ، فَأَخَذَ رِدَاءَهُ مَكَانَهُ حَتَّى دَخَلَ عَلَى حَفْصَةَ، فَقَالَ لَهَا: يَا بُنَيَّةُ، إِنَّكِ لَتُرَاجِعِيْنَ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حَتَّى يَظَلَّ يَوْمَهُ غَضْبَانَ؟ فَقَالَتْ حَفْصَةُ: وَاللهِ، إِنَّا لَنُرَاجِعُهُ فَقُلْتُ: تَعْلَمِيْنَ أَنِّي أُحَذِّرُكِ عُقُوْبَةَ اللهِ، وَغَضَبَ رَسُوْلِهِ؟ يَا بُنَيَّةُ، لاَ تَغُرَّنَّكِ هَذِهِ الَّتِي أَعْجَبَهَا حُسْنُهَا، وَحُبُّ رَسُوْلِ اللهِ إِيَّاهَا قَالَ: ثُمَّ خَرَجْتُ، حَتَّى دَخَلْتُ عَلَى أُمِّ سَلَمَةَ لِقَرَابَتِي مِنْهَا، فَكَلَّمْتُهَا، فَقَالَتْ أُمُّ سَلَمَةَ: عَجَبًا لَكَ يَاابْنَ الْخَطَّابِ! دَخَلْتَ فِي كُلِّ شَيْءٍ، حَتَّى تَبْتَغِي اَنْ تَدْخُلَ بَيْنَ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ (رواه البخاري و مسلم)

By God, we never used to count on women in the days of the pre-Islamic ignorance. Then, when Islam came and Allah mentioned their rights, we then gave them their rights. Once we were thinking of doing something, suddenly my wife suggested: ‘Just do another thing, this or that.’ Then I said to her, ’You don’t have any say in this matter, don’t interfere in my affairs.’ My wife replied, ‘You’re strange! O son of al-Khattâb, do you say this to me while your daughter Hafsah, the wife of the Prophet, often criticizes and refuses what the Prophet demanded and even made him upset for the whole day?’

Then ‘Umar promptly went to see Hafsah: ‘My daughter, is it true that you often refuse what

> the Prophet demanded of you and made him upset for the whole day?' 'We, the Prophet's wives, often do that,' Hafsah said. 'I warn you not to disobey Allah and His Apostle. Your jealousy to other wives should not make you do this to the Prophet.'
>
> Afterwards, 'Umar went see Umm Salamah (*ra*), another of the Prophet's wives, since she was also a distant relative. I told her about my daughter's bad behavior toward the Prophet, and how upset I was with her. Surprisingly, Umm Salamah replied: 'O 'Umar, son of Khattâb, it surprises me that you interfere in our affairs so much that you would poke your nose even into the affairs of Allah's Apostle and his wives.'
>
> I then came out of the Umm Salamah's house with embarrassment. She has disproved my intention to interfere in this matter. (Bukhârî and Muslim).[9]

The role of women in the transmission of religious knowledge has sadly decreased over time. By the third century of Islam, for example, there were only ten women who were known and recorded as the transmitters of knowledge.[10] This situation deteriorated when Islam fell into the hands of those who were very good at expanding the state's territory but actually did not possess a noble culture in science and education. Despite the success of Islam in territorial expansion, a negative dimension was

evident in the isolation of women from access to education. Worse still, was that this idea of women's voices as silent and absent from public religious learning was even regarded as part of Islamic teachings.

Much later, the marginalization of Muslim women in the area of education became more obvious as the result of colonization. For around three centuries, many Islamic countries were colonized by the West. During this time, the colonial political agenda systematically deceived and misled the majority of Muslims. However, there were a few Muslim elites who were lucky enough to have access to education. Amongst this small number, women were still discounted for various reasons, such as the influence of local traditions that were not in favor of women having access to education. The impediment became even greater due to the influence of the fatalist (*jabariyyah*) ideas of some strands of Sufism. All this completed the marginalization of women's education in countries where Muslims were the majority.

Now, what has to be done to ensure that women can successfully reclaim their rights to be educated, as was the case in the Prophet's time? There is no doubt that the existing regulations and policies concerning education must be scrutinized and adjusted so that they do

not – either directly of indirectly – discriminate against women. If we believe that education is the right of every individual – man or woman – then all obstacles must be eliminated. These obstacles could originate from political policies, cultural values, or religious views.

From the religious perspective, we must be very selective and critical towards opinions that deny women their rights. Any attempt to teach and quote certain texts of hadîth – with inauthentic *sanad* – that could potentially deny women their access to education, must really be ended. If these hadîth are taught in religious books or in curriculum textbooks, efforts must be made to revisit their content.

One example of this is a hadîth that argues that women must always stay at home, obey their husbands, and fulfill their needs. The text of this hadîth was quoted by Imâm al-Ghazâlî (d. 505H/1111AD) in his popular book *Ihyâ 'Ulûm al-dîn* and also by al-Shaikh Nawawî of Banten (d. 1314H/1897AD) in his book '*Uqûd al-Lujjayn* when discussing the obligations of wives toward their husbands.[11] Even though this hadîth has been adopted by several famous scholars, its status remains invalid (*da'îf*) or weak.[12]

The texts of hadîth of this kind would always hinder women from gaining knowledge

and education. Another such example is the prohibition of women from being involved in activities taking place in mosques. Banning women from praying in the mosque is yet another way of curbing their access to knowledge, education, and information. This is clearly in contrast with the practice during the Prophet's time, when the mosques were used as a centre of knowledge and information as well as a place of worship. The following hadîth is the one most frequently invoke to deny women entry to mosques:

صَلَاةُ الْمَرْأَةِ فِيْ بَيْتِهَا أَفْضَلُ مِنْ صَلَاتِهَا فِيْ الْمَسْجِدِ (رواه البيهقي)

> It is better for women to pray in their houses than to pray in the mosque. (Bayhaqî). [13]

Even though the *sanad* of the text is believed to be valid and acceptable (*sahîh*) and has been clarified by Ibn Khuzaymah, Ibn Hibbân, al-Haythamî and al-Suyutî, its meaning contradicts the command of the Qur'ân and several other more authentic hadîth urging all of us to seek knowledge, contemplate, and question.

It is now time to revisit the inadequacy of our educational materials, especially those related to the teaching of religion. To date, much of the religious teaching materials seem to reinforce discriminatory treatment against

women. Teaching materials of this kind must, therefore, be reviewed and rewritten to eliminate these discrepancies. This is essential, because at present many people are more familiar with many hadîth that have been misinterpreted and that discriminate against women than they are with many other hadîth and the Qur'ânic verses that emphasize the equality between men and women. For example, a number of hadîth argue that women were created from a crooked rib of man, women are the source of *fitnah* (trial and discord), women are dumb and less faithful to their religion, most women are believed to be the majority inhabitants of hell, women are not qualified as leaders or as witnesses, they are not allowed to travel without a *mahram* (close relatives), they must unconditionally obey their husbands, and there is even a hadîth that depicts women as a source of bad luck. The meaning of these hadîth must entirely be reinterpreted. Some of these hadîth should even be rejected, either because their *sanad* is weak or because their meanings contradict the teaching of the Qur'ân and other more authentic hadîth with a more reliable sanad.

We have earlier seen how 'Âishah bint Abî Bakr (*ra*) has already set an example of how she criticized a hadîth narrated by Abû Hurayrah (*ra*) and adopted by Imam Bukhârî in his *Sahîh*

which depicts women as a source of bad luck. The referred text is the text of the hadîth which was narrated by Abû Hurayrah (*ra*):

إِنَّمَاالشُّؤْمُ فِيْ ثَلاَثَةٍ: فِي الْفَرَسِ، وَالْمَرْأَةِ، وَالدَّارِ (رواه البخاري)

"Three sources of bad luck are: horses, women, and houses". (Bukhârî).[14]

'Âishah refused to accept thise hadîth because it contradicts with the teaching of the following Qur'ânic verse:

مَا اَصَابَ مِنْ مُصِيْبَةٍ فِى الاَرْضِ وَلاَ فِي اَنْفُسِكُمْ اِلاَّ فِي كِتَابٍ مِنْ قَبْلِ اَنْ نَبْرَأَهَا اِنَّ ذٰلِكَ عَلَى اللهِ يَسِيْرٌ (الحديد، ٢٢)

"No misfortune can happen on earth or in your souls but is recorded in a decree before we bring it into existence: that is truly easy for God" (*al-Hadîd*, 57: 22).

'Âishah (ra) said that it was impossible that the hadîth claiming that women are a source of bad luck came from the ProphetProphet (saw), her beloved husband. Here, 'Âishah (ra) teaches us that the interpretation of the Hadîth must be in alignment with the teaching of the Qur'ân. [15]

This initiative from 'Âishah emphasized how the interpretation of hadîth must be guided by the teaching of the Qur'ân. Regarding the relationship between men and women, for example, we should refer to a number of

principles of togetherness, respectness, the sense of equal collaboration, good attitudes towards each other, justice, prosperity and mercy, that outlined in the Qur'ân. These principles can surely be used as the basis for any attempt to reinterpret a number of hadîth that have literally been misinterpreted against women's interests.

Chapter 8

Gender and Politics

قَدْ أَجَرْنَا مَنْ أَجَرْتِ يَا أُمَّ هَانِيْءَ (رواه البخاري)

O Umm Hâni', we have given shelter to whom you have given shelter. (Bukhârî).[1]

The above hadîth was expressed by the Prophet on the day of the Liberation of Mecca in 632 A.D. It is reported that Umm Hâni' bint Abî Tâlib (*ra*) granted political asylum to someone who during the wars fought against Islam. However, her decision to grant the person asylum was opposed by her own brother, 'Alî ibn Abî Tâlib (*ra*). In response, Umm Hâni' decided to see the Prophet to seek his advice who then supported her decision to

grant the asylum. This story is one of the many examples showing how women were involved in making decisions concerning public politics and how supportive the Prophet himself was of this.

The roles and the involvement of women in the political sphere at the Prophet's time dated back to the earliest days of the Islamic community in Mecca. The monotheism and justice introduced by the Prophet were supported by many women from the very beginning. According to much of the existing historical evidence, Khadîjah bint Khuwaylid (*ra*) was the first to declare her *îmân* (faith) in the Prophet. She was the one who relentlessly kept on supporting the *risâlah* (mission) of the Prophet, as illustrated in the following hadîth:

أَبْشِرْ يَا بْنَ عَمِّ وَاثْبُتْ فَوَالَّذِيْ نَفْسُ خَدِيْجَةَ بِيَدِهِ إِنِّيْ لَأَرْجُوْ أَنْ
تَكُوْنَ نَبِيَّ هَذِهِ الْأُمَّةِ

> Be of good cheer, O cousin, and stand firm. By the One in Whose hand is the soul of Khadîjah, I hope that you will be the Prophet of this nation.[2]

Khadîjah (*ra*) was also the one who took the Prophet to Waraqah ibn Nawfal who convinced him that the one who came to him was indeed the angel Gabriel, who had also once come to

the Prophet Mûsâ (*as*). When the Prophet was still in doubt and worried that what came to him was actually similar to the one that came to the Arab fortune-tellers (*kâhin*), again Khadîjah was there to convince him that he was indeed the Prophet and the Apostle chosen by Allah. Khadîjah (*ra*) was not only trying to console the Prophet and declare her new faith to him but was also declaring her readiness for all the consequences that she would be faced with. This was in itself a political choice made by a woman in reaction to the birth of a new religion, Islam. In response to Khadîjah's firm stance, the Prophet praised her courage saying:

> "By God! Allah will never send me a woman to be my wife better than Khadîjah. She believed in me when people denied me, she trusted me when people belied me; she supported me with her wealth when people refused to support me, and I was blessed with children by her when I was denied children by other women."[3]

Beside Khadîjah, there were several other women who played an active role in the early days of Islam. They believed in the Prophet Muhammad, embarked on the *hijrah* (forced exile) with him to Medina, donated their wealth, and even sacrificed their lives. Sumayyah Umm Ammâr ibn Yâsir (*ra*) was the first to die defending her faith, followed by Umm Habîbah

(*ra*), Umm 'Abdillâh bint Abî Hathmah (*ra*), Asmâ bint Umays (*ra*) and several other women who sought asylum in Ethiopia after being persecuted for their faith in Islam. It is also documented that Fatîmah bint al-Khattâb (*ra*) courageously stood up to 'Umar ibn al-Khattâb, who had not yet embraced Islam. Likewise, Asmâ bint Abî Bakr (*ra*) dared to deliver food to the Prophet (*saw*) in the cave of Thûr when others were afraid to make contact with him.

On several occasions, women proved more determined in their struggle than the men who retreated and lost their courage. It is reported that on one occassion when the Prophet (*saw*) was prostrating before the Ka'bah,[4] a group of Quraysh men came and dumped camel droppings on his head. 'Abdullâh ibn Mas'ûd (*ra*), who witnessed the incident, was not able to help until Fatîmah (*ra*), the daughter of the Prophet, came to remove the droppings and dismissed the group. A similar phenomenon occurred during the battle of Uhud. When almost all the men were forced to retreat and no one stayed to protect the Prophet (*saw*), Nusaybah bint Ka'ab (*ra*) came to shield him from the Quraysh's attacks.

The above stories clearly illustrate the political role played by women in the early period of Islam. The involvement of women

in politics in Medina is yet further evidence that confirms their crucial role. As previously described in many sections of this book, women's opinions were a great influence on the Prophet in making his efforts to stop domestic violence, particularly wife-beating. Some other examples include the agreement reached between the Prophet and a group of women on allocating separate teaching sessions for them, and the protection of the Prophet for a woman whose marriage was prearranged by her parents without consulting her.

All of these policies and decisions were made possible for the Prophet to address because women were actively and unreluctantly engaged in questioning all the various problems they were faced with. Interestingly, on many occasions the Prophet chose to adopt their opinions and pay attention to their concerns instead of rejecting or opposing them. The women were also not reluctant to come forward and consult the Prophet: asking about the difficulties they were faced with, seeking his support for their cases, showing their support for the Prophet's decisions, and declaring their *bay'at* (pledge of allegiance) toward the mission of monotheism and the concepts of justice introduced by the Prophet.

The women also played a crucial political

role when almost all of the Prophet's companions were excessively emotional after the Treaty of Al-Hudaybiyyah. Most of the companions regarded the treaty as a humiliation to the existence of Muslims. Consequently, many of them either refused to accept it or at least did not support the decision made by the Prophet. Despite their refusal, the Prophet went ahead with it. The treaty required that the Prophet Muhammad should not be named as the Messenger of Allah. Further, the content of the treaty was felt to be very detrimental to the Muslims, because Mecca residents who had converted to Islam had to be sent back to Mecca, while Medina residents who returned to their infidelity against Islam were not sent back to Medina. In addition, all Muslims were forced to return to Medina and not allowed to set foot in Mecca under any circumstances, even for the purpose of pilgrimage. In return, a ceasefire was announced.

In response to this treaty, Umar (*ra*) personally approached the Prophet and asked: "You are a Prophet, aren't you?" "Yes!" the Prophet replied. "Aren't we on the right path, and they are the misled ones?" "Yes!" "Then why do we have to accept being humiliated by this treaty?" The Prophet said, "I am the messenger of Allah, I will never disobey what Allah has ordered me to do, and I am convinced

that Allah will help me."

As a sign of accepting the treaty, the Prophet asked his companions to slaughter camels and shave their heads. However, none of his companions was willing to do so. The Prophet then repeated his order three times. Still, no one was willing to follow the order. The Prophet became angry and went into Umm Salamah's tent. She asked, "What's wrong?" "The Muslims will be destroyed because they didn't follow my order", said the Prophet. "O Apostle, do not blame them. They are sad and disappointed, just like how you felt when you accepted the treaty. It is hard for them to return without being able to step into their beloved hometown Mecca. I suggest that you go out and do not talk to anybody. Do what you asked them to do. Slaughter your own camel and then shave your head. When they see what you do, they will definitely do the same." Precisely as predicted by Umm Salamah (ra), all the Prophet's companions eventually accepted and did what the Prophet did. (Bukhârî and Abû Dâwud).[5]

Based on several texts of this hadîth and the various depictions of the story, it is clear that women in the early period of Islam played a very important political role. This is more surprising, however, if we acknowledge the fact that they came from a social background where

they were regarded as 'not significant'. Indeed, their involvement was still moderate, but it was sufficient to lead us to a conclusion that the involvement of women in the political sphere is not forbidden in Islam.

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By looking at their involvement in the early period of Islam, many should eventually come to realize that involvement in politics is not gender-based; rather, it is a joint responsibility that aims at improving our social lives. In the Qur'ân, this duty is emphasized as a joint endeavor and partnership between both men and women.

وَالْمُؤْمِنُوْنَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُوْنَ بِالْمَعْرُوْفِ وَيَنْهَوْنَ عَنِ
الْمُنْكَرِ وَيُقِيْمُوْنَ الصَّلَاةَ وَيُؤْتُوْنَ الزَّكَاةَ وَيُطِيْعُوْنَ اللهَ وَرَسُوْلَهُ أُوْلَئِكَ
سَيَرْحَمُهُمُ اللهُ إِنَّ اللهَ عَزِيْزٌ حَكِيْمٌ. (التوبة، ٧١)

> And (as for) the believing men and the believing women, they are guardians of each other; they enjoin good and forbid evil and keep up prayer and pay the poor-rate, and obey Allah and His Apostle; (as for) these, Allah will show mercy to them; surely Allah is Mighty, Wise. (Al-Tawbah, 9: 71).

There is an assumption in the classical Islamic literature that the sources of laws that disqualify women as leaders are much easier to find than otherwise. However, in the history of the early period of Islam, it is evident that 'Âishah – the Prophet's wife – led her troops against the troops of 'Alî ibn Abî Tâlib (*ra*). This indicates that there were a number of companions of the Prophet amongst her troops who acknowledged her leadership. If this acknowledgement resulted from the companions' *ijtihâd*, it could at least serve as a legitimate call for revisiting the laws that prohibits women from any leadership role.

As found in various sources of the literature, the prohibition of women from leadership roles is based on the Qur'ân, hadîth, and the scholars' consensus. It is based mainly on verse 34 of *Surah al-Nisâ*, stating that "*men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means*." Some scholars suggest that *qawwâm* means "leader", while

others say that it means "protector." In much of the contemporary literature, the scholars' opinions are deeply divided. Some of them maintain that the above verse is the basis for disqualifying women from any leadership role and such opinions are opposed by other scholars for several reasons. First, this verse specifically deals with the issue of leadership in the context of relationships and cannot therefore, be used to argue about the leadership in the public domain. Second, this verse is not normative; rather, it is informative, depicting the situation and the conditions in which the Arabs lived at the time. Thus, this verse does not contain any legal implications. Third, there are a number of other verses that indicate the eligibility of women for leadership roles.

In *Sûrah Al-Tawbah*, verse 71, for example, it is mentioned that women are entitled to guardianship over men. The word "guardianship" here can either refer to authority, leadership, or partnership and cooperation. Based on these reasons, the statement suggesting that the Qur'ân forbids women from any leadership role cannot be justified.

With regard to the hadîth, it can be concluded that there are three texts of hadîth that are seen as the basis for forbidding women from the leadership role. First is the Prophet's (*saw*)

statement that was narrated by Abî Bakarah (*ra*):

عن أبي بكرة رضي الله عنه، قال: لَقَدْ نَفَعَنِي اللهُ بِكَلِمَةٍ سَمِعْتُهَا مِنْ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَيَّامَ الْجَمَلِ بَعْدَ مَا كِدْتُ أَنْ أَلْحَقَ بِأَصْحَابِ الْجَمَلِ فَأُقَاتِلَ مَعَهُمْ، قَالَ: لَمَّا بَلَغَ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّ أَهْلَ فَارِسَ قَدْ مَلَّكُوْا عَلَيْهِمْ بِنْتَ كِسْرَى، قَالَ: لَنْ يُفْلِحَ قَوْمٌ وَلَّوْا أَمْرَهُمْ إِمْرَأَةً. (رواه البخاري)

> From Abî Bakarah (*ra*), who said: Allah has allowed me to benefit from what I heard from the Prophet (*saw*) during the Battle of the Camel. I almost sided with the camel troops [ʻÂishah's troops against the troops of ʻAlî ibn Abî Tâlib (*ra*) and fought with them]. When the Prophet heard the news that the Persians had chosen the Kisra's daughter as Queen, the Prophet said: "A nation that hands over its affair to a woman shall never prosper. (Bukhâri).[6]

Since this hadîth was narrated by al-Bukhârî, the majority of Muslim scholars unconditionally accept it. Such acceptance has however not been uncontested by others who believe that there is an awkwardness in the chain of its narrators, particularly Abî Bakarah (*ra*). During the caliphate of ʻUmar ibn Khattâb (*ra*), Abî Bakarah (*ra*) was whipped eighty strokes for accusing Shu'bah ibn Mughîrah (*ra*) of committing adultery without being able to present enough

evidence in court.A verse in *Sûrah al-Nûr* states that a person who has accused others of committing adultery without any proof is no longer qualified to give testimony for the rest of his or her life, even though the person has repented. Since his testimony was no longer valid, so were his narrations.

There have been a number of interpretations of the above hadîth, as explained by Hebah Raûf 'Izzat: First, that women are not entitled to occupy a strategic position or to handle any matter; second, that this hadîth only prohibits women from occupying the highest position (*khilâfah*) but not their leadership in other areas; third, that the hadîth only provides information and has no legal implication. Other scholars who are against the prohibition of women from leadership have also developed two responses: first, they reject this hadîth because of its dubious narration and because it contradicts basic Islamic principles; second, they criticize the existing interpretation of the hadîth and call for its reinterpretation in a more neutral way. Raûf Izzat favors the latter group.[7]

According to her, this hadîth is *sahîh* (valid) but does not mean that women should be banned from stepping onto the political and public leadership stage. She also suggests that the hadîth should be grouped with other hadîth

that are also narrated by Bukhârî, especially the hadîth that talks about the Kingdom of Kisra of Persia and its interactions with the Prophet's community. This hadîth explains that when the Prophet's messenger went to deliver his letter to Kisra of Persia, he tore the letter into pieces and the messenger of the Prophet returned back to Medina empty-handed. Not long after, the Prophet predicted the destruction of Kisra's kingdom. Second, the notification of the Prophet that the Caesar of Rome and Kisra of Persia would be destroyed, and their people would submit to Allah. Third, the above hadîth, Abî Bakarah's one, was posed only as an early prediction of the Prophet to the destruction specifically of the female ruler of Persia, namely Bawran bint Shayruyah ibn Kisra.

There are several other reasons offered in prohibiting women from assuming leadership roles. Amongst these is the claim that the Prophet, his companions and the generation after them, never handed over political leadership to women despite the fact that there were a number of bright and wise women. There are, on the other hand, a number of verses in the Qur'ân and a number of hadîth that depict women as equal to men as human beings. As this has become the foundation, it is not important whether or not it was evident in

the past because not all the good deeds existed and took place at the time. There is for example, no proof that a black person was appointed to lead the community during the Prophet's time. Does this mean that Black persons can never be appointed to a leadership position? Regarding this matter, in the methodology of *Usûl Fiqh*, "something that is left out cannot serve as the basis to claim that this something is good or bad". The fact that the Prophet never handed over leadership other than to the Quraysh tribe, as also followed by his companions and the *tabi'în*, cannot be used as a basis to suggest that the political leadership in Islam should only be held by the people of Quraysh.

In the view of the dominant religious discourse during the early period of Islam, political leadership (*khilâfah*) must be held by the individuals from the Quraysh tribe. This idea was based on several verses of the Qur'ân that praised the *Muhâjirîn* and on several hadîth about the leadership of Quraysh and the acceptance by the companions of the existing leadership model. The interpretation that qualifies only the Quraysh tribe as leaders surely emerges from a culture which does not acknowledge that all human beings are equal. The concept of *qiwâmah* or *qawwâm*, when interpreted as leadership, cannot be associated

with a certain race or gender group. Leadership is in fact concerned with real political power, expertise, and capability.[8]

Let us summarize our analysis of the above hadîth by presenting a statement made by a classical scholar, Abû al-Wafâ ibn 'Aqîl (431-513 H/1040-1119 AD), who said that "*Politics (that is approved by Islam) is that which benefits humankind and keeps them away from destruction, even though it was not implemented by the Prophet and was not included in the revelation texts.*"[12] Thus, to support or to reject someone as a leader should not be based upon gender but on the extent to which the person is capable of benefiting humankind.

Conclusion:

The Gender Struggle and Jihâd

إِنَّ مِنْ أَعْظَمِ الْجِهَادِ كَلِمَةُ عَدْلٍ عِنْدَ سُلْطَانٍ جَائِرٍ .

(رواه الترمذي)

The Prophet (*saw*) said:
"The best form of *jihâd* is a word of truth in front of an oppressive ruler (*sultân jâ'ir*). (Tirmidhî).[1]

In Indonesia today, as elsewhere in the world, the issue of gender has become an area of critical concern within Islamic communities as well as without. Considering that issues of power and gender as well as the concept of *jihâd* are two of the most central debates today, it is well worth bringing them together by way

of concluding this study. Many of the hadîth that have been analyzed in this book clearly constitute a *jihâd* in the arena of competing ideas over women's rights. I believe that we need to re-examine the hadith in this gender sensitive fashion so as to restore the teachings of Islam to their original truth in which women are accorded respect and compassion. Though we often hear *ulama* and other scholars asserting that Islam has never discriminated against women, that Islam treats women and men equally, we also constantly hear and witness the opposite. In fact, Islamic preachers commonly use the very hadîth I have quoted in the preceding chapters as a justification for restricting women's rights and treating them as subordinate second class citizens. They argue that this inequality and necessary subservience has been ordained by God. Consequently, this final discussion will attempt to resolve this contradiction.

In my view, we must struggle for that which is unquestionably right. In order to do so, we need to reinterpret the hadîth from a perspective based on the essential teaching of *Tawhîd* in which we are taught that nothing and no one is worthy of worship but Allah – and so, clearly, a woman cannot possibly be ordered to worship her husband. Unfortunately, redefining the hadîth as I have done in this study is one thing

and implementing them in daily life is quite another. It will require continuous struggle. What we need is to embark on a *jihâd* based on the perspective and experience of women. Though the term *jihâd* is perhaps currently the best known Arabic language term in the Western world, it is worth focusing attention on the true meaning of the term in order to clarify the concluding call being made here for a gender sensitive *jihâd*.

In Islam, a war that is waged for the sake of defending faith or resisting external aggression is traditionally defined as *jihâd*. How does this apply to women? This question often emerges because in the classical Islamic view, waging war is regarded as an obligation only for men, and not for women. This view derives mostly from the traditional view of *fiqh* which strictly separates the roles and the spheres in which men and women are allowed to carry out their activities. The separation of public or domestic space for men and women respectively was the basis for classical *fiqh* to distinguish the roles and the positions of men and women and greatly influence the rules that govern the rights and the obligations of men and women. Thus, going to war, which is regarded as a public activity, is also claimed by *fiqh* to be a male-dominated activity.

We can be certain that the exclusion of women from any negotiation or decision-making with regard to *jihad* was not driven merely by the fact that they were not obliged to go to war. Since the participation in wars was viewed as a public activity, it was not possible for women to go to war, simply because they had already been assigned to perform housekeeping duties and personal care. For women, rather than being simply resentful about the fact that men go war, it is far more about having to bear the impact of war without being given freedom to choose. It is evident that women and children, while the ones who suffer the most from any war, receive the least protection. Often, in the aftermath of a war, women are assigned to look after the injured and rehabilitate the family members of those who fall. Worse still, women are even used as "living shields," or have to witness their country going bankrupt because of a prolonged war. Is there any logic that can properly justify the exclusion of women from decision making regarding a war, simply because they are not obliged to go to war?

It is quite disturbing to learn that in fact the concept of *jihâd* in Islam, from the very beginning, was not associated exclusively with one gender (men), nor was it exclusively associated with war or violence or the so-called

masculine-dominated activity. Ibn Manzûr (630-711 H/1232-1311 AD) investigated all the derivations of the word 'jihâd' and found that its meanings only circled around *al-juhd* (efforts, capacity and strength), or *al-jahd* (determination or something that causes great difficulty and tiredness).[2] This was how the word *jihâd* was interpreted in the early days of Islam (period of Mecca). At the time, the word 'jihâd' was interpreted as a call for Muslims to be patient, wise and determined in preaching the truth of al-Qur'ân. (al-Furqân, 25: 52, al-Nahl: 16: 110, al-'Ankabût, 29: 69).[3]

In the Qur'ân, activities related to wars are not expressed as *jihâd*; rather, the Qur'ân uses the terms such as *al-qitâl*, *al-muhârabah* or *al-hirâbah* to refer to wars. This implies that the word *jihâd* refers to something other than *qitâl* or war. Some of the earlier Islamic scholars seemed to be aware of this notion, so that when they elaborated the concept of war in Islam they preferred to use the terms such as *al-sayr*, or *al-ghazawât* or *al-ma'rakah*.

The fact that jihâd was never associated with a certain gender or with violence at the beginning was reflected in a conversation between the Prophet and 'Âishah (*ra*) who asked the Prophet about the meaning of jihâd for women. The Prophet said that going on a

pilgrimage to Mecca, leaving their homeland, and struggling to respond to the call of Allah were considered *jihâd*.

This true meaning of *jihâd* was later obscured. In the field of *fiqh*, *jihâd* was defined as battle. From then onwards, *jihâd* was regarded as a male-dominated obligation. Many *fiqh* scholars were influenced by this interpretation, which led to the original meaning of *jihâd* being obliterated. For example, Ibn Rushd (520-595 H/1126-1198 AD) in his book *Bidâyah al-Mujtahid* included the use of weapons as one form of *jihâd*, alongside *jihâd* by the heart, the tongue, and the hand. Mahmûd ibn 'Umar al-Bajûrî (d. 1323H/1905AD), a dedicated Shafi' scholar of *fiqh*, also included armed combat with the enemies of Islam, although he still mentioned the much earlier definition of *jihâd*. In addition, *jihâd* in the battlefield was defined as a lesser *jihâd*, contrasted with the greater *jihâd* to fight our own ego and desires, which is classified as the highest level of *jihâd*.[4]

In several texts of hadîth, the term *jihâd* has various definitions. These include *da'wah* aimed at defending the truth, fighting in the path of Allah, controlling our ego, embarking on the pilgrimage and *`umrah*, caring for one's parents and fulfilling the needs of one's partner.

With regard to the involvement of women

in *jihâd*, the discussion can be divided into three topics; first, domestic (household) *jihâd*; second, *jihâd* by embarking on pilgrimage; and third, *jihâd* through serving soldiers.

Domestic *Jihâd*

The following hadîth is rather specific about women and their domestic jihâd:

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللّٰهُ عَنْهُمَا قَالَ: جَاءَتْ إِمْرَأَةٌ إِلَى النَّبِيِّ
صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُوْلَ اللّٰهِ! أَنَا وَافِدَةُ النِّسَاءِ إِلَيْكَ
هَذَا الْجِهَادُ كَتَبَهُ اللّٰهُ عَلَى الرِّجَالِ فَإِنْ يُصِيْبُوْا أُجِرُوْا وَإِنْ قُتِلُوْا كَانُوْا
أَحْيَاءً عِنْدَ رَبِّهِمْ يُرْزَقُوْنَ وَنَحْنُ مَعْشَرَ النِّسَاءِ نَقُوْمُ عَلَيْهِمْ فَمَا لَنَا مِنْ
ذٰلِكَ؟ قَالَ رَسُوْلُ اللّٰهِ عَلَيْهِ وَسَلَّمَ أَبْلِغِيْ مَنْ لَقِيْتِ مِنَ النِّسَاءِ
أَنَّ طَاعَةَ الزَّوْجِ وَاعْتِرَافًا بِحَقِّهِ يَعْدِلُ ذٰلِكَ وَقَلِيْلٌ مِنْكُنَّ من يفعله .
(رواه البزار والطبراني)

> Ibn `Abbâs (*ra*) narrated that "a woman came to the Prophet (*saw*) and said, 'O Messenger of Allah, I am the women's messenger to you. Fighting for Allah (*jihâd*) is meant for men; if they succeed, they take their due and if they die martyrs, they are alive (in the afterlife) and are provided for by Allah. So, what equals their deeds in our obedience to Allah?' He said, 'Tell those whom you meet among women that the obedience to your husbands and performing your duties would make it equal. A few of you do that.' (Al-Bazzâr and Al-Tabarani).[5]

Many scholars refer to this hadîth and associate women with domestic matters, limiting the *jihâd* of women to obedience and devotion to their husbands. In addition, they claimed that this was the command of God, and therefore women should be thankful since this was a form of how much Islam appreciates women. With such a provision in place, women did not need to think of leaving the house and sharing the responsibility of security and defense. This hadîth is quoted from the book of Hadîth *al-Targhîb wa al-Tarhîb,* by 'Abd al-'Azîm al-Mundhirî (581-656 H/1185-1258 AD). However, among all these religious experts and scholars, only al-Mundhirî used the term '*ruwiya*' (narrated by) in this hadîth to indicate that he was not responsible for the authenticity of the hadîth. When classical Muslim scholars do not indicate any assessment towards the authenticity of a text of hadîth they quote, this usually indicates that they might have found some form of awkwardness but they prefer to overlook and leave it for future researchers to resolve.

'Alî ibn Abî Bakr al-Haythamî (735-807H/1335-1405 AD), a Hadîth expert, claims in his book titled *Majma' al-Zawâ'id wa Manba' al-Fawâ'id* that this hadîth is weak (*da'îf*).[6] Among its chain of narrators was one Rashdîd

ibn Kurayb who was considered by the hadîth experts as an unreliable narrator which renders it invalid as the foundation of the law.

If this text is still to be used, its reinterpretation is inevitable. The current interpretation that women do not need to be involved in *jihâd* of other forms except staying at home and serving their husbands is at odds with the history of the Prophet's time when many women went to war with the Prophet. They took part in looking after the wounded and sent them back to Medina, provided the needs for the troops, and some of these women did physically fight in the war, such as Nusaybah bint Ka'ab (*ra*), Al-Rabi' bint al-Mu'âwwidh (*ra*), Umm Sulaym (*ra*), Umm 'Atiyyah (*ra*), and some of the wives of the Prophet.

Based on these facts, the reinterpretation of the above hadîth can be done by assuming that this hadîth was said as a form of appreciation of the Prophet to all kinds of household duties. Such assumption is relevant, since Islam indeed appreciates all kinds of duties that are decent and beneficial. It is also narrated that the Prophet (pbuh) was personally involved in doing his own household duties.

عَنِ ٱلأَسْوَدِ بْنِ يَزِيْدٍ سَأَلْتُ عَائِشَةَ رَضِيَ اللّٰهُ عَنْهَا، مَا كَانَ النَّبِيُّ
صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُ فِي الْبَيْتِ؟، قالت: "كَانَ يَكُوْنُ فِيْ

مِهْنَةِ أَهْلِهِ – تَعْنِيْ فِيْ خِدْمَةِ أَهْلِهِ – فَإِذَا حَضَرَتْ الصَّلَاةُ خَرَجَ إِلَى الصَّلَاةِ. "(رواه البخاري)

> Al-Aswad ibn Yazîd narrated that he asked 'Âishah "What did the Prophet do at home?" She said, "He used to work for his family, and when he heard the *Adhan* (call for the prayer), he would go out. (Bukhâri).[7]

There is a similar hadith narrated in the collection of Imâm Ahmad ibn Hanbal:

عَنْ هِشَامٍ بْنِ عُرْوَةَ عَنْ أَبِيْهِ: سَأَلْتُ عَائِشَةَ رَضِيَ اللهُ عَنْهَا مَا كَانَ النَّبِيُّ يَعْمَلُ فِيْ بَيْتِهِ؟ كَانَ يَخِيْطُ ثَوْبَهُ وَيَخْصِفُ نَعْلَهُ وَيَعْمَلُ مَا يَعْمَلُ الرِّجَالُ فِيْ بُيُوْتِهِمْ. (رواه أحمد)

> Hishâm ibn 'Urwah reported from his father: I asked 'Âishah "What did the Prophet do at home?" She said, "The Messenger of Allah (*saw*) used to sew his own clothes, mend his own shoes, and do whatever other work men do in their homes." (Ahmad).[8]

Based on the meaning of this hadîth, we are obliged to show our appreciation for household tasks, which have been promised the same reward promised to *jihâd* in the battlefield, rather than saying that the women's sphere is strictly limited to taking care of household matters.

A Call for a Gender *Jihâd*

In another narration: Âishah (*ra*) said, "Several wives of the Prophet (*saw*) were requesting to join the *jihâd* outside their homes, then the Prophet said: "The best and the most superior *jihâd* (for women) is hajj." The validity and the reliability of this *hadîth* should not be doubted, as it was narrated by al-Bukhârî. Ibn Hajar al-'Asqallanî (d. 1449) who argued that the accuracy of the narration of this hadîth was further supported by the narration of Nasâ'î from Abû Hurayrah.[9] The dispute over this hadîth does not lie in its status, but rather in its interpretation. It is a critical hadîth for the issue at hand as it is often employed to restrict the role of women in participating in other fields, apart from their obligation to go on pilgrimage. Some Muslim scholars even state that the absence of women from the battlefield is part of their *jihâd*. There have also been many who argue that women are not physically fit or are too weak to fight in wars.

If we refer to the books of hadîth, the interpretation that restricts the realm of *jihâd* for women to pilgrimage certainly has no basis. According to many experts on hadîth, this hadîth is not intended to map the territory of *jihâd* for women; rather it emphasizes the privilege of

pilgrimage in the eyes of Allah and the Prophet. al-Mundhirî, for example, chose to include this hadîth in a chapter that talks specifically about the eminence of *hajj* (pilgrimage) and *umrah*, along with other hadîth explaining that hajj is indeed the most righteous deed. This means that the saying of the Prophet Muhammad (*saw*) *jihâdukunn al-hajj"* must be interpreted not as "(the territory of) the *jihâd* for you (women) is pilgrimage (only)," but rather that "you (women) could also obtain (the reward of) the *jihâd* (by embarking) on pilgrimage." This interpretation is logical if we refer to a number of other hadîth that document the stories of the lives of several women in the time of the Prophet. Sitti 'Âishah (*ra*) herself, who narrated this hadîth, also joined the *jihâd* along with the Prophet, as well as performing the pilgrimage.

In his remarks about *jihâd*, Imâm al-Bukhârî explicitly stressed the involvement of women in *jihâd*. The examples of this include chapter 63: *ghazw al-mar'ah fî al-bahr (*women fighting at sea), chapter 64: *haml al-rajul imra'atihî fî al-ghazw dûna ba'd nisâ'ihî (*men bringing along their wives to the battlefield), chapter 65: *ghazw al-nisâ wa qitâlihinn ma'a al-rijâl (*women's war and their battle beside men), chapter 67: *mudâwât al-nisâ' al-jurh fî al-ghazw* (women's medical services for the wounded), and chapter 68:

radd al-nisâ' al-jurh wa al-qatl (women in charge of transporting the wounded and the dead). The writing of these topics certainly reflects al-Bukhari's understanding of various hadîth related to women and *jihâd*. This point of view expressed by al-Bukhari serves to emphasize that women are equal to men and have the right to be involved in *jihâd*. Thus, limiting women's territory or banning them from *jihâd* based solely on several texts of hadîth that claim "the most appropriate *jihâd* for women is the pilgrimage" is indeed inappropriate.

عَنِ الرَّبَيْعِ بِنْتِ مُعَوِّذٍ قَالَتْ: كُنَّا مَعَ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ نَسْقِيْ،
وَنُدَاوِيْ الْجَرْحَى، وَنَرُدُّ الْقَتْلَى إِلَى الْمَدِيْنَةِ (رواه البخاري)

> Rabî' bint Mua'wwidh reported that "We were with the Prophet (*saw*), giving water to the thirsty, treating the wounded, and bringing the dead bodies of the Muslims to Medina. (Bukhârî).[10]

In principle, Islam does not distinguish between men and women with respect to *jihâd*, neither from its obligatory perspective nor from how its implementation is carried out. The Qur'ân itself does not deny women's obligation toward *jihâd*, nor does it prohibit them from any involvement. The exemption mentioned in the Qur'ân (al-Tawbah, 9:91 and al-Fath 48:17) is merely intended for those who

are physically weak, sick and disabled, and is not in any way intended to bring up the issue of gender. The conditions mentioned can be experienced by both men and women. I do not want to depict war as a particularly virtous activity by itself. I merely want clarify the fact that the Prophet did not isolate women from taking part in such ventures. What is important is that we open up the space for a more creative interpretation of *jihâd* as a way of opposing all forms of discrimination. Islam is in fact against all kinds of discriminative behavior, oppression, and injustice, and it also regards any attempt to resolve these issues as a form of *jihâd*. This meaning is clearly stated in the hadîth that "the best form of *jihâd* is a word of truth in front of an oppressive ruler (*sultân jâ'ir*)." (Nasâ'i).[11] Similarly, Abû Dâwud and Tirmidhî from Abî Sa'id al-Khudrî (*ra*) also argued that the best form of *jihâd* is *kalimah 'adl,* just words or the just struggle against an authoritarian ruler10. Simply put, justice must be pursued whenever injustices and discrepancies exist, whether it is against an individual, a community or a state. This struggle for justice is described as the greatest form of *jihad*.[12] As a consequence, whenever and wherever women are oppressed and are unable to express their opinions, it is incumbent upon us to struggle to protect and empower them for

the Prophet himself described this as the best form of *jihâd* (*afdal al-jihâd*).

Notes

Chapter 1: Interpreting the Hadîth

1. al-Shâfi'i, Muhammad ibn Idris, *al-Risâlah*, ed. Abd al-Fattah bin Zafir Kabbârah, 1999; Dâr al-Nafâ'is, Beirut, Lebanon, p. 235, no.1261.
2. Ibid, no. 1249-1250.
3. al-Suyutî, Jalâl al-Dîn Abd al-Rahmân, *Tadrîb al-Râwi fi Sharh Taqrîb al-Nawawi,* ed. Ahmad Umar Hishâm. Dar al-Kitab al-'Arabi, Beirut; 1989, vol.I, p.54.
4. al-Tirmidhî, Muhammad bin Isa, *Sunan al-Tirmidhî,* ND; Dar Ihya al-Turâth al-'Arabi, Beirut, Lebanon, vol. III, p. 466, no. 1162.
5. al-Suyûtî, *Tadrîb al-Râwi* , vol. I, pp. 43-44.
6. al-Shâfi'î, *al-Risâlah,* p.201 no.1040.
7. al-Khayr Abadî, Muhammad Abû al-Layth, *al-Manhaj al-'Ilmi 'ind al-Muhaddithîn fi al-Ta'âmul ma'a Mutûn al-Sunnah,* In: Journal *Islamiyyat al-Ma'rifah*, Year 4th, vol. XIII, 1998, IIIT, Kuala Lumpur; 1998, pp. 14-18.

8. al-'Asqallâni, Ahmad bin 'Ali bin Hajar, *Fath al-Bâri Sharh Sahîh al-Bukhâri,,* 1993: Dar al-Fikr, Beirut, Lebanon, vol. II, pp. 190-192.
9. al-Nawawî, Abû Zakariya Muhy al-Dîn Yahya bin Sharaf, *al-Majmû' Sharh al-Muhadhdhab*, al-Maktabah al-Salafiyyah, Madinah; 1994, vol. III, p. 52.
10. al-Khair Abadî, *al-Manhaj al-'Ilmi 'ind al-Muhaddithîn fi al-Ta'âmul ma'a Mutûn al-Sunnah,* pp. 22-26.
11. The accepted *Hadîth* was narrated by Bukhârî. In: al-'Asqallânî, *Fath al-Bâri,* vol. VI, pp. 150-152.
12. For the text of the hadîth discussed above, see: Ibn al-Athîr, Abû as-Sa'âdât Mubârak bin Muhammad, *Jâmi' al-Usûl min Ahâdîth al-Rasûl,* 1984; Dar Ihya at-Turath, Beirut-Lebanon, vol. IX, p. 87, no. 5967.
13. The statement of Hanafi school is that the a broad meaning cannot be narrowed by a solitary hadîth (*âmm al-Qur'ân lâ yukhashshash bi al-khabar al-wâhid*).
14. See: Al-Jazîrî, 'Abd al-Rahmân, *al-Fiqh 'ala Madhâhib al-Arba'ah,* 1424H/2004, Dar al-Hadith, Cairo, Egypt, vol. I, pp. 181-183.
15. al-Haythamî, Nûr al-Dîn bin 'Aliy bin Abî Bak bin Sulaymân, *Majma' al-Zawâ'id wa Manba' al-Fawâ'id,* ed. Muhammad 'Abd al-Qâdir Ahmad 'Athâ, 2001; Dâr al-Kutub al-'Ilmiyyah, Beirut, Lebanon, vol. II, p. 36.
16. Al-Ghazâlî, Shaykh Muhammad, *Al-Sunnah al-Nabawiyyah bayna Ahl al-Fiqh wa Ahl al-Hadîth,*

pp. 62-64. The text of hadîth affirming woman to enter mosque can be found at: Ibn al-Athîr, *Jami' al-Usûl*, vol. VI, p. 155, no. 3283. and vol. XI, p. 467, no. 8698.

17. al-Bukhârî, Muhammad bin Isma'il, *Sahih al-Bukhâri,* ed. Musthafa Dib al-Bughâ, 1987; Dâr al-Qalam, Damascus, Syria, vol. I, p. 321, no. 904.
18. In: al-'Asqallânî, *Fath al-Bâri,* vol. III, pp. 109-110.
19. al-Qaradâwî, Yusuf, *Kaifa Nata'amalu ma'a al-Sunnah al-Nabawiyyah; al-Ma'alim wa al-Dhawabith*, 1999: IIIT, Cairo, Egypt, pp. 93-183.
20. Ibid, p.130.
21. al-Ghazâlî, Shaykh, *Al-Sunnah al-Nabawiyyay,* pp. 55-58.
22. In: al-Khair Abadî, *al-Manhaj al-'Ilmi 'ind al-Muhadditsîn fi al-Ta'âmul ma'a Mutûn al-Sunnah*, p. 44.
23. In: Ibn al-Athîr, *Jami' al-Usûl*, vol. VI, p. 17.
24. Ibid
25. See: Ibn Qayyim al-Jawziyyah, *I'lâm al-Muwaqqi'în 'an Rabb al-'Alamîn,* ed. Muhy al-Din 'Abd al-Hamid, ND; Dar al-Fikr, Beirut , vol. III, p.14.
26. Ibid.

Chapter 2: The Prophetic Mission

1. Ibn al-Athîr, *Jâmi' al-Usûl*, vol. IV, p. 414, no. 1977.
2. The actual text of the above hadîth as narrated

by Imâm Mâlik ibn Anas in al-Muwatta' is as follows:

أَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، قَالَ: بُعِثْتُ لأُتَمِّمَ حُسْنَ الْأَخْلَاقِ

means: The Messenger of Allah (*saw*) said: "The only reason I have been sent is to perfect good manners or morality.". See: Ibn al-Athîr, *Jâmi' al-Usûl,* vol. IV, p. 413, no: 1974.

3. Ibid, vol. IV, p. 416, no. 1980.
4. Ibid, vol. IV, p. 412, no. 1973.
5. Ibid,, vol. IV, p. 414, no. 1978.
6. Ibid, vol. IV, p. 414, no. 1979.
7. Ibid, vol. XI, p. 324, no. 8401.
8. Ibid, vol. IV, .p. 414, no: 1976.
9. Ibid, vol. IV, p. 414, no. 1977.
10. Ibid, vol. II, p. 481-482, no. 854.
11. Ibid, vol. X, p. 359, no. 7340.
12. Ibid, vol. VII, p. 330, no. 4719.
13. Ibid, vol. II, p. 161, no. 552.
14. Ibid, vol. II, p. 172, no. 561.
15. Ibid, vol. II, p. 377, no. 760.

Chapter 3: Marital Relationship of Love and Mercy

1. Hadîth of al-Bukhârî, Muslim, Abû Dâwud and al-Nasâ'î, See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XII, p. 124, no. 8924.

2. al-'Ajlûni, Isma'îl bin Muhammad, *Kashf al-Khafâ'wa Muzîl al-Ilbâs 'ammâ –shtahara min al-Ahadîth 'alâ Alsinat al-Nâs,* 1988; Dâr al-Kutub al-'Ilmiyyah, Beirut, Lebanon, vol. II, p. 239, no. 2432.
3. al-'Asqallânî, *Fath al-Bârî*, vol. x, p. 139.
4. Sunan Ibn Mâjah, kitâb: *al-Nikâh*, bâb *Mâ Jâ'a fî Fadl al-Nikâh*, vol. I, p. 592, no. 1846.
5. Sahîh al-Bukhârî, kitâb: *al-Nikâh*, bâb: *al-Targhîb fî al-Nikâh*, Hadîth no: 4675. See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. I, p. 200.
6. Sahîh al-Bukhârî, *Kitâb al-Nikâh*, Hadîth no. 4677. See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XII, p. 122, no. 8919.
7. al-'Asqallânî, *Fath al-Bârî*, vol. X, p. 138-139.
8. al-Zuhaylî, Wahbah, *Al-Fiqh al-Islami wa Adillatuhu,* 1999; Dar al-Fikr, Damascus, Syria, vol. VII, p. 35.
9. See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XII, p. 142, no: 8974.
10. See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XII, p. 141, no. 8972.
11. Sahîh al-Bukhârî, kitâb: *al-Talaq*, bâb: *al-Khulu' wa Kayfa al-Talaq fîhî*, Hadîth no: 4867. See Ibn al-Athîr, *Jâmi' al-Usûl,* vol. IV, p. 501, no. 2093.

Chapter 4: Marriage, Having Sex and Violence

1. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XII, p. 24, no. 8780.
2. Ibn al-Athîr, *Jâmi' al-Usûl*, vol. VII, p. 323, no. 4706.

3. Ibid.
4. al-'Asqallânî, *Fath al-Bârî*, vol. X, p. 368.
5. See al-Zuhaylî, *al-Fiqh al-Islâmî wa Adillatuhû*, vol.: VII, p. 789-797.
6. See Ibn Hajar al-'Asqallânî, *Fath al-Bârî,* vol.: X, p. 368.
7. See Husein Muhammad, *Fiqh Perempuan; Refleksi Kyai atas Wacana Agama dan Gender*, 2003: LKIS, Yogyakarta, p. 99.
8. Ibn al-Athîr, *Jâmi' al-Usûl*, vol. VII, p. 323, no. 4707.
9. Ahmad bin Hanbal, *Musnad Ahmad,* vol. IV, p. 23.
10. See: Ibn Hajar, al-'Asqallânî, *Fath al-Bârî,* vol. X, p. 385-386.
11. Sahîh Muslim, kitâb: al-Zakât, vol. II, p. 697, no. 1674.
12. Read some text in: Ibn al-Athîr, *Jâmi' al-Usûl,* vol.: II, p. 481-482, no. 854).
13. Ibid, vol. VII, p. 330, no. 4719.
14. Nawawi, Muhammad ibn Umar, *Syarh Uqûd al-Lujjayn,* ND: Syirkat Nur Asiya, p. 5.
15. Al-Hasani, Isma'îl, *Nazariyât al-Maqâsid 'ind Muhammad Tâhir b. 'Ashûr, p. 207-210.*
16. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. VII, p. 329, no. 4717.
17. Ibid, vol. XII, p. 23-24, no. 8780.
18. Ibid, vol. IV, p. 271, no. 1823.
19. Ibid, vol. VII, p. 360, no. 4790 and al-Mundhirî, 'Abd al-'Azhîm ibn 'Abd al-Qawiyy, *al-Targhîb*

wa al-Tarhîb min al-Hadîth al-Syarîf, 1968: Dâr Ihyâ al-Turâth al-'Araby, Egypt, vol. III, p. 390.

Chapter 5: Fitnah and 'Awrah

1. See: al-Qurthubî, Abû 'Abdillah Muhammad bin Ahmad al-Ansâri, *al-Jâmi' li Ahkâm al-Qur'ân*, 1993; Dar al-Kutub al-Ilmiyyah, Beirut-Lebanon, vol. XIV, p. 97-98.
2. Ibid, vol. XII, p. 157 and 201.
3. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. VII, p. 425, no. 4960.
4. al-Suyûtî, Jalâl al-Dîn Abd al-Rahmân, *al-Jâmi' al-Saghîr min Hadîth al-Bashîr al-Nadhîr,* ND; Matba'ah Mustafa al-Bâbi al-Halaby, Cairo, Egypt, vol. II, p. 575.
5. Ibn Hibbân, Muhammad ibn Hibbân ibn Ahmad, *Sahîh Ibn Hibbân*, ed. Shu'ayb al-Arna'ut, 1993: Mu'assasah al-Risalah, Beirut, Lebanon, vol. XII, p. 412, no. 5598 and 5599.
6. FK3 (Forum Kajian Kitab Kuning), *Ta'lîq wa Takhrîj 'alâ Sharh Uqûd al-Lujjayn fî Bayân Huqûq al-Zawjayn,* ND: FK3, Jakarta, Indonesia, p. 123-124.
7. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. VI, p. 306, no. 3648.
8. See: al-Zayla'î, Abû Muhammad 'Abdullah bin Yûsuf, *Nasb ar-Râyah Takhrîj Ahâdîth al-Hidâyah,* ed: Ahmad Shams al-Dîn, 2002; Dar al-Kutub al-'Ilmiyyah, Beirut-Lebanon, vol. II, p. 295.
9. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. XI, p. 268, no. 8234.

10. Sunan Abû Dâwud, vol. IV, p. 62.
11. Sunan Abû Dâwud, no. 640, vol. I, p. 173.
12. See Abû Syuqqah, Abd al-Halîm Muhammad, *Tahrîr al-Mar'ah fi 'Asr al-Risâlah; Dirâsat 'an al-Mar'ah Jâmi'ah li-Nusûs al-Qur'ân al-Karîm wa Sahîhay al-Bukhârî wa Muslim,* 1991; Dâr al-Qalam, Kuwait.
13. al-Nawawî, Abu Zakariya Muhy al-Dîn Yahya bin Sharaf, *al-Majmû' Sharh al-Muhadhdhab,* 1994: al-Maktabah al-Salafiyyah, Madinah, vol. III, p. 171; al-Shirbînî, Muhammad al-Khathîb, *Muhgni al-Muhtâj ilâ Ma'rifat Alfâz al-Minhâj 'alâ Matn Minhâj ath-Thâlibîn li an-Nawawi,* ND: Dar al-Fikr, vol. I, p. 185. See also the of Hanafi school: al-Marghînânî, Burhân al-Dîn 'Aliy bin Abî Bakr, *al-Hidâyah Sharh al-Bidâyah,* ND; Mathba'ah Mustafâ Muhammad, Cairo, Egytp, vol. I, p. 44.

Chapter 6: Woman and Righteousness

1. Refer to FK3, *Ta'lîq wa Takhrîj 'alâ Sharh 'Uqûd al-Lujjayn fî Bayân Huqûq al-Zawjayn*, ND: FK3, Jakarta, p. 37-71.
2. Ibn al-Athîr, *Jami' al-Usûl*, vol. 2, p. 241, no. 651.
3. Ibid, vol. 12, p. 123, no. 8922.
4. Muhammad Syams al-Haqq al-Azhîm Abâdî, *Áwm al-Ma'bûd*, Dar al-Kutub al-'Ilmiyyah, Beirut, 1415H, vol. V, pp. 56-57
5. Ibid, vol. 2, p. 241, no. 651.
6. Ibn Manzûr, Abû al-Fadhl Jamâl ad-Dîn Muhammad bin Mukarram, *Lisân al-'Arab,* ND;

Dâr Sâdir, Beirut, Lebanon, vol. II, p. 516-517.

7. Several texts of the hadîth about the poverty of the Prophet and his companions, can found in: Ibn al-Athîr, *Jâmi' al-Usûl,* vol. V, p. 380-393, no. 2793-2819.
8. Ibid, vol. V, p. 54-55, no. 2208.
9. Ibid, vol. X, p. 534, no. 7605.
10. Abu Shûqqah, Abdul Halim Muhammad Abu *Tahrîr al-Mar'ah fi 'Asr al-Risâlah; Dirâsat 'an al-Mar'ah Jâmi'ah li-Nusûs al-Qur'ân al-Karîm wa Sahîhay al-Bukhârî wa Muslim,* 1991; Dâr al-Qalam, Kuwait., vol. II, p. 54-55.
11. Sahîh Muslim, kitâb: *al-Fitan wa Ashrât al-Sâ'ah*, bâb: *al-Jassâsah*, no. 7028. See Ibn al-Athîr, *Jâmi' al-Usûl*, vol. XI, p. 50, no. 7815.
12. See: al-Qaradâwi, Yûsuf, *Fiqh al-Zakah; Dirasat Muqâranah li-Ahkâmihâ wa Falsafatihâ fî Daw' al-Qur'ân wa al-Sunnah*, 1994: Mu'assasah al-Risalah, Beirut, Libanon, vol. II, page. 688-689.
13. Ibn al-Athîr, *Jâmi' al-Usûl*, vol. VII, p. 30.
14. Ibid, vol. VII, 328, no. 4716.

Chapter 7: Woman and Education

1. Ibn al-Athîr, *Jami' al-Usûl*, vol. VI, p. 155, no. 3283.
2. Ibid, vol. XI, p. 467, no. 8698.
3. Ibid.
4. Ibid, vol. VII, p. 99, no. 4259.
5. Ibid, vol. VII, p. 88, no. 4236.
6. Ibid, vol. X, p. 359, no. 7340.
7. Ibid, vol. X, p. 359, no. 7340.

8. Ibid, vol. VIII, p. 196, no. 5352.
9. Ibid, vol.: II, p. 481-482, no. 854.
10. See: Ruth Roded, *Kembang Peradaban*, p. 119-123.
11. FK3 (Forum Kajian Kitab Kuning), *Wajah Baru Relasi Suami Isteri; Telaah Kitab 'Uqûd al-Lujjayn*, 2001; LKIS, Yogyakarta, p. 126-128.
12. al-Ghazâli, *al-Sunnah al-Nabawiyyah Bayna Ahl al-Fiqh wa Ahl al-Hadîth*, p. 51.
13. Al-Bayhaqî, Ahmad bin Husein, *al-Sunan al-Kubra,* ND; Dar al-Fikr, Cairo, Egypt, vol. III, p. 12.
14. Ibn al-Athîr, *Jami' al-Usûl*, vol. VIII, p. 396, no. 5795.
15. al-'Asqallani, *Fath al-Bârî,* vol. VI, p. 150-152.

Chapter 8: Gender and Politics

1. Ibn al-Athîr, *Jami' al-Usûl*, vol. III, p. 260, no. 1143.
2. Ibn Hishâm, Abû Muhammad 'Abd al-Malik, *Al-Sîrah al-Nabawiyyah*, 1992; Dâr al-Khayr, Beirut, Lebanon, vol. I, p. 191.
3. Bintu as-Syâthi', 'Aisyah, *Istri-Istri Nabi: Fenomena Poligami di Mata Seorang Tokoh Wanita,* 2001: Pustaka Hidayah, Bandung, p. 58.
4. The Ka'bah is a cube-shaped stone structure that was built by the Prophet Ibrâhîm and his son Ismâ'îl. The Ka'bah was built for the purpose of worshipping and maintaining a relationship with God.
5. Ibn al-Athîr, *Jâmi' al-Usûl*, vo. IX, p. 207-222. no.

6098. Also refer to Amîn Duwaydar, p. 464.

6. Ibn al-Athîr, *Jami' al-Usûl*, vol. IV, p. 443, no. 2028.
7. Izzat, Hebah Raûf, *al-mar'ah wa al-'amal al-siyâsî; ru'yah islâmiyyah,* 1999; IIT, Kuala Lumpur, Malaysia, pp. 132-136.
8. See Al-Qaradâwî, *Kayfa Nata'âmal ma'a al-Sunnah,* p, 130.

Conclusion: The Gender Struggle and Jihâd

1. Ibn al-Athîr, *Jami' al-Usûl*, vol. I, p. 235.
2. Refer toIbn Manzûr, *Lisân al-'Arab*, vol. 3, 133-135.
3. Al-Bûtîy, *al-Jihâd fî al-Islâm; Kayfa Nafhamuhû wa Numârisuhû,* 1996, Dâr al-Fikr, Damascus., p. 12-22.
4. For more details, refer to Dr. Wahbah al-Zuhaylî, *Athar al-Harb fî al-Fiqh al-Islâmî; Dirâsât Muqâranah*, 1981, Dâr al-Fikr, Damascus, Syria.
5. Al-Haythamî, *Majma' al-Zawâ'id,* vol. 4, p. 401, no. 7631.
6. Ibid.
7. Ibn al-Athîr, *Jami' al-Usûl,* vol. 12, p. 25, no. 8786.
8. Ahmad bin Hanbal, *Musnad al-Imâm Ahmad*, vol. VI, p. 260, no. 26282.
9. Refer to: al-'Asqallani, *Fath al-Bârî*, vol. 6, p. 167-168.
10. Shahîh al-Bukhâri, *Kitab al-Jihad wa al-Siyari, Bab Mudawamah al-Nisâ' al-Jurhâ*, vol. III, p. 1056, no. 2726.

11. Ibn al-Athîr, *Jâmi' al-Usûl,* vol. 1, p. 236.
12. Ibid, vol. 1, p. 235-236.

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Glossary

'adâlah: probity and uprightness of character.

afdal al-jihâd: the best form of jihad

ahâd: isolated, it is a *hadîth* which is narrated by people whose number does not reach that of the *mutawâtir*.

akhlâq: (plural of *khulq*) means natural disposition, character or morality.

âm: (*al-'âm*), the general as opposed to the particular (*al-khâs*). Terms used by jurists in the complex matter of extracting laws from statements composed as codal propositions. In Islamic scholarship it is termed `general' (*al-`âmm*). This refers to a plural concept which distinguishes generality in the term itself and generality in the meanings to which the term may refer.

amah: (*al-amah*), woman slave.

'amal sâlih: good deeds.

amânah: (*al-amânah*), trustworthiness, reliability, and faithfulness.

amîn: (*al-amîn*), the trustworthy.

'aqd al-ibâhah: a contract of permissibility.

'aqd al-tamlîk: an ownership contract.

'aqîdah: religious doctrine, faith and belief.

as: (abbreviation of *'alaihi al-salâm*), means peace be upon him.

asbâb al-nuzûl: The causes or the circumstances and events surrounding a particular revelation of the Qur'an. Knowledge of the *asbâb al-nuzûl* helps provide an understanding of the original context and intent of a particular revelation. This knowledge is necessary for determining the *ratio legis* of a ruling and whether, for example, the meaning of the revelation is of a specific or of general application.

asbâb al-wurûd: The causes or the circumstances and events surrounding sayings or deeds of the Prophet (*saw*).

'asr: afternoon prayer .

athar: tradition.

'awrah: weakness. In a fiqh context, it also refers to the private parts of a woman's body that should be covered.

âyât: (plural of *âyat*). Literally, sign, indication, message; an aspect of God's creation; a

section of the Qur'anic text often referred to as a `verse.'

'azl: coitus interruptus.

da'îf: weak, it is a *hadîth* which fails to reach the status of *sahîh* or *hasan*.

dabt: correctness, precision and exactitude of the way of narration of the hadîth texts.

darban ghayr mubarrih: beating not causing any injury.

da'wah: Islamic preaching.

falta'tihî: She should come to him.

falya'tihâ: He should come to her.

faqr: poverty.

fâsid: corrupt.

fatwâ: juridical verdict, legal opinion.

fî sabîlillâh: in the way of God.

fiqh al-hudûd: fiqh of criminal matters.

fiqh: literally, is understanding. The legal science founded mainly on rules and principles developed by human reasoning (*ijtihâd*) and the body of knowledge so derived. *Fiqh* may therefore vary from one jurist or school of thought to another. The term "*fiqh*" is sometimes used synonymously with *Sharî`ah*.

fitnah: temptation to commit a forbidden act, any affliction which may cause man to go astray and to lose his faith in spiritual values; test, trial, confusion, civil war, oppression.

fuqaha: scholars of fiqh.

ghazawât (al-ghazawât): military expedition.

hadîth: traditions, sayings and deeds narrated from the Prophet Muhammad (saw).

hâjiratan firâsahâ: the woman consciously and deliberately abandons her husband.

hajj: (*al-hajj*) pilgrimage to Mecca.

halâl: lawful, permitted.

harâm: unlawful, forbidden by *shari'a* law, prohibited.

hasan: literally good, fair, a reliable hadîth whose narrator might have been suspected of poor retention.

hijrah: Migration. The act of leaving a place to seek sanctuary of freedom or worship in another or for any other purpose. Specifically, the *hijrah* refers to the Prophet's journey from Macca to Medina in the in the twelfth year of his mission, corresponding to June 622 AD. The Islamic calendar begins from this event (H).

hijri: Pertaining to the *hijrah*.

hirâbah: warfare and battle.

hudûd: (plural of *hadd*). Literally, limits; the specific punishments assigned by the Qur'an and the *Sunnah* for particular crimes, i.e. intoxication, theft, rebellion, adultery and fornication, false accusation of adultery, and apostasy. These crimes involve transgressing

the limits of acceptable behavior.

hujjiyah: Producing the necessary proof or authority to validate a rule or concept.

hunafâ': (*al-hunafâ'*), nobles of Quraysh, ones who commit no to polytheism, adultery, alcoholic drink and bad morality.

hurr : (al-hurr): free man or woman.

îd: the day of celebration.

ijmâ`: consensus of opinion. Usually defined as the unanimous agreement of the *mujtahid* of any period following the demise of the Prophet Muhammad on any matter. As such, it is described as collective *ijtihâd*.

ijtihâd: literally, striving and self-exertion; independent reasoning; analytical thought. *Ijtihâd* may involve the interpretation of the source materials, inference of rules from them, or giving a legal verdict or decision on any issue on which there is no specific guidance in the Qur'an and hadîth.

ikhtilâf: difference of opinion; disagreement; dispute; controversy.

'illah: inconsistencies, a hidden defect in a hadîth. It is also means effective cause or rationale of a particular ruling.

'ilm al-hadîth: knowledge of hadîth.

'ilm al-tafsîr: knowledge how to interpret the texts, especially the Qur'ân.

'ilm asbâb al-wurûd: knowledge of the causes

or the circumstances and events surrounding sayings or deeds of the Prophet (*saw*).

îmân: faith.

iqra': read.

istinbât: fnference. Deducing a somewhat hidden meaning from a given text. The process of extracting laws.

jabariyyah: predestination

jâhiliyyah: foolishness, refer to the time before the Prophet Muhammad (*saw*) was coming.

jihâd: Literally, striving. Any earnest striving in the way of God, involving either personal effort, material resources, or arms for righteousness and against evil, wrongdoing and oppression. Where it involves armed struggle, it must be for the defense of the Muslim community or a just war to protect even non-Muslims from evil, oppression, and tyranny.

kâhin: fortune-tellers

kanca wingking: (Javanese word), companion behind

khabar 'âm: (al-khabar al-'âmm): news reported by most people, as opposed to one reported by a single narrator (*khabar khâs*).

khabar khâs: (al-khabar al-khâs): news reported by a single person from the Prophet (saw), as opposed to one reported by a large number of people (*khabar 'âm*).

khabar: news or report.

khalîfah: steward, vicegerent; successor. Man is referred to as the *khalîfah* or steward of God on earth. The word *khalîfah* was used after the death of the noble Prophet Muhammad to refer to his successor, Abu Bakr, as head of the Muslim community. Later it came to be accepted as the designation for the head of the Muslim state. Anglicized as caliph.

khalq: creation.

khâs: (*al-khâs*) The particular as opposed to the general *(`âmm*).

khawf al-fitnah: fear of temptation to commit a forbidden or immoral act. As a concept in fiqh, it has a positive connotation meaning protection in the sense that the feeling of fear protects oneself from the possibility of being tempted or prevents oneself from actually committing a forbidden act.

khidmah: service.

khilâf: Controversy, dispute, discord.

khilâfah fi al-ard: The concept that human being is a vicegerent of God in the earth.

khilâfah: Stewardship, vicegerency; successorship. Office of the head of the Muslim state. Also the designation of the political system of the Muslim state after the noble Prophet.

khulu': a women's right for cancellation of her marriage.

khuluq: (singular of akhlâq), means means natural disposition, character or morality.

kutub al-sittah: the six renowned collections of hadîth, including the Sahîh of Bukhâri, the Sahîh of Muslim, the Sunan of Tirmidhî, the Sunan of Ibn Mâjah, the Sunan of Nasâ'î dan the Sunan of Abû Dâwud.

ma'rakah (al-ma'rakah): battle.

macak: (Javanese word), putting on make up to please the husband.

madhhab: (singular of *madhâhib*), iiterally, is way of going. School of thought.

mahram: a man whom a woman may never marry because of the degree of closeness of the blood-relationship, i.e. father, brother, son, uncle, etc. A woman is not required to observe hijab in front of her *mahram*.

makrûh: hateful.

manak: (Javanese word), giving birth.

mandûb: recommended.

maqtû': disjoined.

mar'ah sâlihah: righteous woman.

masak: (Javanese word), cooking and preparing meals.

maslahah: considerations of public interest. It is generally held that the principal objective of the *Sharî`ah* and all its commandments is to realize the genuine *maslahah* or benefit of the people.

matn: text or contents of a hadîth.

mawaddah: love and peace.

mawdû'*:* fabricated or forged: is a *hadîth* whose text goes against the established norms of the Prophet's sayings, or its reporters include a liar. Fabricated *hadîth* are also recognized by external evidence related to a discrepancy found in the dates or times of a particular incident.

mu'âsharah bil-ma'rûf: treating each other with kindness

muhârabah: warfare or battle.

muhkam: exact and clear. In *fiqh*, it refers to the kind of the text which has exact and only one meaning and has no probability other meanings.

mujtahid: one who exercises *ijtihâd*.

munkar*:* denounced: is a *hadîth* which is reported by a weak narrator, and whose narration goes against another authentic *hadîth*.

muqallid: one who follows or imitates another, often blindly and unquestioningly.

mushâwarah: consultation with each other on problems.

musnad (al-Musnad): supported, hadîth supported by a chain of transmission. It refers also to the kind of book of hadîth compiled according to the name of the companions (*sahâbah*) of the Prophet (*saw*).

mustad'afîn: (al-mustad'afîn): the weak groups.

mutashâbih: allegorical. Refers to verses (*âyât*) of the Qur'an which are expressed in a figurative manner in contradistinction to *âyât muhkamât* or verses which are clear in and by themselves.

mutawâtir*:* consecutive, it is a *hadîth* which is reported by such a large number of people that they cannot be expected to agree upon a lie, all of them together.

muwatta (al-muwatta): name of the book of hadîth compiled by Mâlik ibn Anas (93-179 H/712-792 AD).

nafaqah: adequate support and maintenance.

nikâh: marriage contract.

qat`î: Definitive, unequivocal; free of speculative content.

qawwâm: protector, maintainer.

qitâl: fight and battle.

qiwâmah: the kind of protection and maintenance.

qiyâs: Analogical deduction or reasoning. Recourse to analogy is only warranted if the solution of a new case cannot be found in the Qur'an and hadîth.

ra: (abbreviation of *radiyallâhu 'anhu*), may Allah please him.

rahmah: mercy.

rahmatan li'l 'âlamîn: mercy for the whole universe.

riqâb: slaves and those who are owned by their masters.

risâlah: prophetic mission.

sahâbah: Companions of the Prophet.

sahîh*:* sound. Imam Al-shafi'i states the following requiremetts for a *hadîth*, which is not *mutawatir*, to be acceptable "each reporter should be trustworthy in his religion; he should be known to be truthful in his narrating, to understand what he narrates, to know how a different expression can alter the meaning, and to report the wording of the *hadîth* verbatim, not only its meaning".

sakînah: peaceful.

salaf: the early generations of Muslims, i.e., the Companions of the Prophet (saw) and the generation immediately following them.

sâlih: proper and good.

sâlihah: righteous woman

sanad: the chain of people who conveyed a *hadîth* from the Prophet (*saw*). Scholars who specialized in *hadîth*, such as al-Bukhari and Muslim, subjected the *isnad* of each *hadîth* they came across to intense scrutiny. Only if they were certain that each person in the *isnad* was competent and truthful, and that each had been in a position to meet and learn from or teach the next person in the

chain, would the scholars accept a *hadîth* as being authentic.

saw: an abbreviation of *sallallâhu 'alaihi wa sallam*, means 'peace be upon him'.

sayr (al-sayr): journey, it means also military expedition.

sharî'ah: literally means the way or the source. It is divine revelation and knowledge which is only obtained from the Qur'an and the hadîth.

shudhûdh: irregularity or incoherence.

sîrah: the history of the Prophet.

sunan: the book renowned compile texts of hadîth.

sunnah: Literally, a clear path or beaten track. Refers to whatever the Prophet said, did, agreed to, or condemned.

sûrah: chapter of the Qur'ân.

swarga nunut nraka katut: (Javanese proverb), following the husband to heaven or dragged by the husband to hell.

ta'wîl: Interpretation or explanation. Sometimes used synonymously with *tafsîr*. Often used in the Qur'an in the sense of `final meaning,' `inner meaning' or `real meaning' of a happening or statement or thing as distinct from its outward appearance.

tâbi`în: Literally, followers. The generation of Muslims immediately after the companions

(sahâbah).

tafsîr: Commentary, exegesis of the Qur'an.

takbîr: to say 'Allâhu Akbar'.

talâq: repudiation, unilateral divorce exercised by men.

tarâdin: the consent of both parties to the marriage contract

tashrî' jinâ'îy: (al-tashrî' al-jinâ'îy), the criminal concepts of fiqh.

tawhîd: belief in or affirmation of the Oneness of God.

thiqah: reliable, trustworthy.

'ulamâ: (plural of *'âlim*), scholars.

usûl al-fiqh: principles of Islamic jurisprudence, philosophy of law; the methodology of deriving laws from the sources of Islam and of establishing their juristic and constitutional validity.

wâjib: obligatory, compulsory.

wâli: Guardian.

zakât fitrah: almsgiving of the day of celebration.

zakât: almsgiving.

zannî: Speculative, doubtful. The texts of the Qur'ân and *Hadîth* that have more than one meanings.

zinâ: Adultery, fornication.

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"The center is falling,
and that is perhaps not a bad thing;
for what passes off as the center
often misses it's most vulnerable
sections –women, non-Arabs,
rural dwellers, migrant labourers,
those who are living with HIV,
the powerless and the dispossessed.
There is so much in what passes off
as "mainstream Islam" that is
really not doing Muslims any good."

"In my many visits to Indonesia,
I have often felt that Indonesia
represents the best hope for
Muslims throughout the world.
In this work, Faqihuddin has
reaffirmed that idea.
This is a wonderful scholarly
contribution to both gender
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hadîth with a universal appeal
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I have learnt an enormous amount
in the course of reading
through this book."

Farid Esack
Professor in the Harvard Divinity School,
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